EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY

DATE: May 10, 2012

TO: Governing Board

FROM: Conservancy Staff

SUBJECT: **Agreement Amendment(s) with the San Francisco Bay Area Rapid Transit District**

RECOMMENDATION

Consider the following actions related to extending take coverage to San Francisco Bay Area Rapid Transit District for the East Contra Costa BART Extension Project ("eBART Phase II Project"):

a. **AUTHORIZE** Conservancy staff to execute a First and Second Amendment to the Participating Special Entity Agreement with San Francisco Bay Area Rapid Transit District, provided the Wildlife Agencies concur with the Agreement.

b. **AUTHORIZE** staff to file a Notice of Determination for this Board action with the County Clerk.

DISCUSSION

ITEM (a). At the January 11, 2012 meeting, the Board authorized staff to execute a Participating Special Entity ("PSE") Agreement with the San Francisco Bay Area Rapid Transit District ("BART") for the eBART Phase II Project ("Project") consisting of the ground-disturbing activities associated with construction and operation of the Hillcrest Avenue Station and Diesel Multiple Unit ("DMU") Maintenance Facility including the associated parking facilities and new and re-aligned roads, as further described in Exhibit 1 (the Planning Survey Report). On January 26, 2012 the PSE Agreement was executed. BART paid all mitigation fees, administrative costs (to date), and contribution to recovery as required in the PSE Agreement. The Conservancy issued the Certificate of Inclusion authorizing activities to commence on January 26, 2012.

CONTINUED ON ATTACHMENT: Yes
ACTION OF BOARD ON: May 10, 2012 APPROVED AS RECOMMENDED: _____
OTHER_____

VOTE OF BOARD MEMBERS
___UNANIMOUS
AYES:_____
NOES: _____
ABSENT: _____
ABSTAIN:_____

I HEARBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF AN ACTION TAKEN AND ENTERED ON THE MEETING RECORD OF THE CONSERVANCY GOVERNING BOARD ON THE DATE SHOWN.

ATTESTED _____
Catherine Kutsuris, SECRETARY OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY

BY:_____, DEPUTY

Shortly after the Project was approved, BART informed the Conservancy of a potential modification to the covered project in order to include an additional 2.56 acres of permanent impact for a necessary soil borrow area. An additional 53,000 cubic yards of soil is required to provide fill for the eBART station parking lot and in order to provide this additional fill, BART determined that 2.56 acres on the southern face of a small knoll on the eastern periphery of the project site needs to be excavated. This potential soil borrow area was not included in the eBART Planning Survey Report because at that time the exact location was unknown to BART.

The applicant is requesting a modification to the Project to cover the additional 2.56 acres of permanent impact associated with the soil borrow area. The modification requires an amendment to the terms of the original PSE agreement between the Conservancy and BART dated January 26, 2012.

BART requires permission from Caltrans to impact a portion of the soil borrow. BART has requested that the amendment to expand take coverage to the soil borrow area be executed after Caltrans provides BART the permission needed to excavate the soil borrow area. To provide BART with this flexibility while enabling the Conservancy ability cover the additional costs associated with developing and processing the proposed modification to the Project, staff prepared two amendments to be executed separately. The First Amendment only reflects the increase in the cap on administrative fees from $35,000 to $40,000. This Amendment will be executed immediately pending the approval of the Board.

The Second Amendment reflects the changes in the project description to include this additional 2.56 acre of soil borrow and the increase in fees. The development fees will increase from $934,310.25 to $995,276.93 (a change of $40,643.79) and the contribution to recovery will increase from $303,151.67 to $323,474.56 (a change of $20,321.89). An Addendum reflecting the modifications to the original Planning Survey Report Application as a result of the Second Amendment was prepared and is attached. This Addendum 1.0 will be added to and incorporated within the PSE Agreement.

ITEM (b). California Environmental Quality Act (CEQA): The Board's decision to authorize the Executive Director to execute a First and Second Amendment to the Participating Special Entity Agreement and to extend take authorization under the Second Amendment to San Francisco Bay Area Rapid Transit District ("BART"), for the East Contra Costa BART Extension Project ("eBART Phase II Project" or "Project") as described in Exhibit 1 and Addendum 1.0, is a discretionary action subject to CEQA. For the Project, BART is the CEQA lead agency. BART prepared the Environmental Impact Report for the East Contra Costa BART Extension Project ("EIR") *(state clearinghouse number 2*005072100*)*, dated April 23, 2009 an approved Addenda on April 28, 2011 and on April 18, 2012, respectively, which evaluated and addressed the modifications to the Project related to the additional soil borrow area.

On January 11, 2012, in approving the PSE Agreement, the Conservancy concurred with the Findings adopted by BART on April 23, 2009 and found that the impacts of the eBART Phase II Project were fully disclosed and analyzed in the EIR and April 28, 2011 Addendum, and that for each significant impact identified in the EIR, the eBART Phase II Project has been changed or mitigated to reduce the impacts to a less than significant level or, for those impacts that could not

be reduced to a less than significant level, a Statement of Overriding Considerations justifies that certain significant and unavoidable environmental effects are acceptable because the benefits of the Project outweigh the unavoidable adverse environmental effects. In approving the first and second amendment to the PSE Agreement, the Conservancy has considered the April 18, 2012 Addendum to the EIR and reaffirms its concurrence with Findings adopted by BART.

Attachments:

- **PSE Agreement First Amendment**
- **PSE Agreement Second Amendment, including:**
  - Main body of amendment
  - Addendum 1.0
    - Main body of Addendum
    - Updated Project Vicinity Maps, Impact and Land Cover Maps and Tables
    - Updated Fee Calculators
- **April 28, 2011 Addendum to the EIR**

FIRST AMENDMENT

TO THE PARTICIPATING SPECIAL ENTITY AGREEMENT OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVATION PLAN/ NATURAL COMMUNITY CONSERVATION PLAN AND GRANTING TAKE AUTHORIZATION

Between

the EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY, the Implementing Entity, and SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT, a Participating Species Entity

RECITALS

The Participating Special Entity Agreement between the East Contra Costa County Habitat Conservancy ("Conservancy") and San Francisco Bay Area Rapid Transit District ("Participating Special Entity" or "PSE") was entered into January 26, 2012 (the "PSE Agreement").

The PSE Agreement provides, in Section 10.4, that it may be amended with the written consent of both parties.

The Conservancy and PSE wish to amend the terms of the PSE Agreement by way of this First Amendment (the "First Amendment").

AMENDMENT

A. The Conservancy and the PSE agree to amend the PSE Agreement as follows:

1. Section 7.6 is amended as follows:

PSE shall compensate the Conservancy for its direct costs associated with this Agreement, including but not limited to, staff, consultant and legal costs incurred as a result of the review of the Application, drafting and negotiating this Agreement, monitoring and enforcement of this Agreement, and meetings and communications with PSE (collectively, Conservancy's "Administrative Costs"). Conservancy's Administrative Costs shall not exceed $40,000 ~~$35,000~~ in the aggregate. Conservancy shall provide PSE with invoices detailing its Administrative Costs monthly or

quarterly, at Conservancy's discretion. PSE shall remit payment of each invoice within thirty (30) days of receiving it.

This provision is not intended to, and shall not be construed to, limit PSE's duty to indemnify the Conservancy as provided in Section 7.7 of this Agreement.

B. This First Amendment may be executed in counterparts.

C. All other terms and conditions of the PSE Agreement shall remain as originally agreed.

D. The Conservancy shall issue a Certificate of Inclusion pursuant to Section 6.1 of the PSE Agreement that is revised to incorporate reference to this First Amendment.

E. This First Amendment shall take effect on the date after both of the following have occurred:

1. The Conservancy and PSE have executed the First Amendment; and

2. The Conservancy has delivered written notice to PSE that the Conservancy has received written concurrence from the Wildlife Agencies regarding the First Amendment in accordance with Section 6.1 of the PSE Agreement.

IN WITNESS WHEREOF, the Conservancy and PSE hereto execute this First Amendment.

THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY

Dated:_____ By:_____
CATHERINE KUTSURIS, Secretary

Dated:_____ By:_____
JOHN KOPCHIK, Executive Director

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

Dated: _____ By: _____
CHRIS QUINN, Acting Assistant General Manager, Transit System Development

Approved as to Form:

Dated: _____ By: _____
JOSE R. SALAZAR, Legal Counsel

Dated: _____ By: _____
GRACE CRUNICAN, General Manager

SECOND AMENDMENT

TO THE PARTICIPATING SPECIAL ENTITY AGREEMENT OF THE EAST CONTRA COSTA COUNTY HABITAT CONSERVATION PLAN/ NATURAL COMMUNITY CONSERVATION PLAN AND GRANTING TAKE AUTHORIZATION

Between

the EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY, the Implementing Entity, and SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT, a Participating Species Entity

RECITALS

The Participating Special Entity Agreement between the East Contra Costa County Habitat Conservancy ("Conservancy") and San Francisco Bay Area Rapid Transit District ("Participating Special Entity" or "PSE") was entered into January 26, 2012 (the "PSE Agreement") and amended by the First Amendment to the Participating Special Entity Agreement. The Participating Special Entity Agreement, as amended by the First Amendment, is referred to herein as the "PSE Agreement".

The PSE Agreement provides, in Section 10.4, that it may be amended with the written consent of both parties.

The Conservancy and PSE wish to amend the terms of the PSE Agreement to reflect minor modifications to the East Contra Costa BART Extension Project and a corresponding increase in fees by way of this Second Amendment (the "Second Amendment").

AMENDMENT

A. The Conservancy and the PSE agree to amend the PSE Agreement as follows:

1. Section 3.1 of the PSE Agreement is amended as follows:

"Application" means the application submitted by the PSE in accordance with Chapter 8.4 of the HCP/NCCP, including Addendum 1.0 which describes an additional grading area for the Hillcrest Avenue Station and Diesel Multiple Unit Maintenance Facility. The Application ~~and which~~ is attached hereto as Exhibit 1. The Application contains a cover

sheet, the results of required planning surveys and the avoidance, minimization and mitigation measures that will be a condition of the PSE using Conservancy's Permits.

2. Section 5.4 is of the PSE Agreement is amended as follows:

As set forth in the Application, PSE agrees to pay the Conservancy a one-time payment of $995,276.93 ~~$934,310.25~~, which amount includes all HCP/NCCP mitigation fees necessary for the Project, less the credit from the eBART Phase I Project ($7,511.77). The payment also includes an amount sufficient to implement additional actions that will contribute to the recovery of endangered and threatened species ("Contribution to Recovery"). PSE has agreed to pay the Conservancy to implement the HCP/NCCP mitigation measure for loss of a Swainson's Hawk nest tree. The overall payment amount is the sum of the following:

Permanent Impact Fee: $646,947.14 ~~$606,303.25~~
Temporary Impact Fee: $2,367.00
Swainson's Hawk Mitigation Fee: $30,000.00
Contribution to Recovery of Endangered Species: $323,474.56 ~~$303,151.67~~

The Participating Special Entity submitted payment for $934,310.25 on January 24, 2012, the remainder ~~The payment~~ must be paid in full before any ground-disturbance associated ~~with the Project~~ with Addendum 1.0 occurs. Notwithstanding the above, the Parties acknowledge that the Conservancy adjusts its fee schedule annually on March 15 of each year in accordance with the fee adjustment provisions of Chapter 9.3.1 of the HCP/NCCP. If the PSE pays before March 15, ~~2012~~ 2013 and construction of the Project commences before March 15, ~~2012~~ 2013, the amount due will be as stated above. If PSE pays on or after March 15, ~~2012~~ 2013 or construction of the Project does not commence before March 15, ~~2012~~ 2013, the amount due will be subject to annual fee adjustments for all fees, and subject to annual adjustments of the Contribution to Recovery based on the formula set forth in Chapter 9.3.1 for the HCP/NCCP wetland mitigation fee. Based on these adjustments, if PSE pays before March 15 of any year, but construction does not commence before March 15 of that year, PSE will either be required to submit an additional payment for any increases or be entitled to a refund without interest for any decreases.

3. Section 6.1.1 is of the PSE Agreement is amended as follows:

The Conservancy's issuance of a Certificate of Inclusion to the PSE is a public agency action that must comply with CEQA. For purposes of the Project, San Francisco Bay Area Rapid Transit District ("BART") is the CEQA lead agency. BART prepared a Environmental Impact Report for the Project, the East Contra Costa BART Extension Project *(state clearinghouse number 2*005072100*)*, dated April 23, 2009 with ~~an~~ two CEQA Addenda ~~Addendum~~ on April 28, 2011 and on April 18, 2012, respectively, which evaluated and addressed the modifications to the Project as reflected in Addendum 1.0. The Conservancy is a CEQA responsible agency for purposes of the Project and, as such,

will rely on the Environmental Impact Report prepared by BART for purposes of fulfilling its responsibilities under CEQA.

B. This Second Amendment may be executed in counterparts.

C. All other terms and conditions of the PSE Agreement shall remain as originally agreed.

D. The Conservancy shall issue a Certificate of Inclusion pursuant to Section 6.1 of the PSE Agreement that is revised to incorporate reference to this Second Amendment.

E. This Second Amendment shall take effect on the date after both of the following have occurred:

1. The Conservancy and PSE have executed the Second Amendment; and

2. The Conservancy has delivered written notice to PSE that the Conservancy has received written concurrence from the Wildlife Agencies regarding the Second Amendment in accordance with Section 6.1 of the PSE Agreement.

IN WITNESS WHEREOF, the Conservancy and PSE hereto execute this Second Amendment.

THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY

Dated:_____ By:_____
CATHERINE KUTSURIS, Secretary

Dated:_____ By:_____
JOHN KOPCHIK, Executive Director

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

Dated: _____ By: _____
CHRIS QUINN, Acting Assistant General Manager, Transit System Development

Approved as to Form:

Dated: _____ By: _____
JOSE R. SALAZAR, Legal Counsel

Dated: _____ By: _____
GRACE CRUNICAN, General Manager

East Contra Costa County Habitat Conservation Plan Natural Community Conservation Plan

City of Brentwood
City of Clayton
City of Oakley
City of Pittsburg
Contra Costa County
ECCC Habitat Conservancy

Template prepared by the ECCC Habitat Conservancy

651 Pine Street, North Wing, 4th Floor
Martinez, CA 94533-0095
Phone: 925/335-1290
Fax: 925/335-1299
www.cocohcp.org

East Contra Costa County Habitat Conservancy

Application Form and Planning Survey Report to Comply with and Receive Permit Coverage under the East Contra Costa County Habitat Conservation Plan and Natural Community Conservation Plan

Addendum 1.0

Project Applicant Information:

Project Name: East Contra Costa eBART Phase II – Addendum 1.0

Project Applicant's Company/Organization: San Francisco Bay Area Rapid Transit District (BART)

Contact's Name: Ric Rattray, P.E.

Contact's Phone: 510-874-7319 Fax: 510-287-4896

Contact's Email: mrattra@bart.gov

Mailing Address: BART

300 Lakeside Drive LKS-21

Oakland, CA 94612

Project Description:

Lead Project Planner: Donald Dean (BART) and Krystal Hinojosa (Conservancy)

Project Location: North of SR 4 right-of-way, south of UPRR tracks, east of Hillcrest Avenue

Project APN(s) #: 052-052-018 and Caltrans SR 4 right-of-way

Number of Parcels/Units: One undeveloped parcel and one state right-of-way parcel.

Size of Parcel(s): The two parcels encompassing the amended activity area total 72.56 acres; the subject of this application is 2.56 acres that would be considered permanently disturbed. BART will acquire a 6.76-acre portion of one privately-owned 20.39-acre parcel. The second parcel will remain in Caltrans ownership.

Project Description/Purpose (Brief): eBART is a rail transit project that will extend approximately 10 miles in the median of State Route (SR) 4 from BART's current terminus at Pittsburg/Bay Point to a station just east of Hillcrest Avenue in the City of Antioch. The eBART Phase II project will construct the eBART Hillcrest Avenue Station parking lot, access road, and maintenance facility. An additional 53,000 cubic yards of soil is required to balance the cut and fill on-site. In order to provide this additional material, an additional 2.56 acres on the periphery of the site, which was not covered by the initial Phase II agreement, will be permanently disturbed. BART is requesting an amendment to the Phase II agreement to cover the additional acreage.

Biologist Information:

Biological/Environmental Firm: Cardno ENTRIX

Lead Contact: Sam Bacchini

Contact's Phone: 916 386 3850 Fax: 916 923 6251

Contact's Email: sam.bacchini@cardno.com

Mailing Address: 701 University Avenue, Suite 200
Sacramento, CA 95825

Executive Summary

The purpose of this Addendum is to request the approval of the East Contra Costa County Conservancy to amend the eBART Phase II Planning Survey Report (PSR) to address one proposed change in the project description. The change is the expansion of the graded area to include the southern face of a small knoll on the eastern periphery of the project site. An additional 53,000 cubic yards of soil is required to provide fill for the eBART station parking lot. In order to provide this additional fill, 2.56 acres on the south side of the knoll would be excavated. This additional grading was not identified in the eBART Phase II PSR, because at that time, the location of the additional excavation was still in question. This application, Phase II - Addendum 1.0, covers the additional acreage. The location of the grading and project plans and sections are presented in Section I below.

Table ES-1 presents the eBART project elements and the acreage affected by each element. The permit coverage under the initial Phase II project agreement was 40.13 acres, comprised of 37.91 acres of permanent disturbance and 2.22 acres of temporary disturbance. The proposed grading would create an additional 2.56 acres of permanent disturbance. The new combined acreage total for the eBART project would be 42.69 acres. Overall, the new grading represents an increase of 6.4 percent compared to the original coverage.

TABLE ES-1
ACREAGE SUMMARY - PHASE II AND ADDENDUM 1.0
(Permanent and Disturbed Acreage)

Project Component	Permanently Disturbed Acreage	Temporarily Disturbed Acreage	Total Acreage
Initial Phase II			
Station Parking Lot and Entry House	21.06		21.06
Maintenance Facility	14.15	2.22	16.37
Access Road	2.70		2.70
Phase II Total	**37.91**	**2.22**	**40.13**
Addendum 1.0-Additional Grading	2.56		2.56
Combined Total: Phase II plus Addendum 1.0	**40.47**	**2.22**	**42.69**

The additional mitigation fee for the 2.56-acre increase in disturbed acreage would be $60,965.68. Of this cost, $40,643.79 would be for permanent impacts to the habitat and $20,321.89 would be for contribution to recovery. With the addition of the new 2.56-acre project area, BART's total fees for the eBART Phase II Project will be $995,276.93. Table ES-2 presents a summary of the East Contra Costa County Conservancy HCP/NCCP fees for the eBART Phase II project and Addendum 1.0.

TABLE ES-2
HCP/NCCP FEE SUMMARY-eBART PHASE II AND ADDENDUM 1.0

Project Component	Development Fee Permanent Disruption	Development Fee Temporarily Disturbed	Contribution to Recovery	Other[a]	Credit[b]	Total
Initial Phase II	$606,303.35	$2,367.00	$303,152.67	$30,000.00	$7,511.77	$934,310.25
Addendum 1.0	$40,643.79		$20,321.89			$60,965.68
Total	**$646,947.14**	**$2,367.00**	**$323,474.56**	**$30,000.00**	**$7,511.77**	**$995,276.93**

Notes:
[a] Mitigation for Swainson's hawk tree replacement.
[b] Credit for eBART Phase I project.

I. Proposed Modifications

Background

The San Francisco Bay Area Rapid Transit District (BART) is extending transit service approximately 10 miles from its existing Pittsburg/Bay Point BART Station in the unincorporated community of Bay Point to a new terminus station east of Hillcrest Avenue in the City of Antioch. The project is known as "eBART" in reference to the extension of service to the "East" portion of Contra Costa County. The eBART project will be constructed in phases.

Phase I. Phase I consists of construction of the transfer platform in the median of State Route 4 (SR 4) east of the existing Pittsburg/Bay Point BART Station. BART was issued take coverage for Phase I construction through the East Contra Costa County Habitat Conservancy (Conservancy) on July 23, 2010, and the permit covers 0.3 acres of permanently disturbed area. (The Phase I Project take coverage application requested approval to disturb a total of 3.8 acres, but 3.50 acres were unneeded, resulting in only 0.3 acres of take.)

Phase II. The second phase of the eBART project (Phase II) consists of construction of the terminus station east of Hillcrest Avenue, which includes the station parking lot, access road, and maintenance facility. Figure 3A (below) of the Phase II Project Planning Survey Report illustrates the overall site plan for the eBART Phase II Project. The Conservancy issued take coverage for these project elements on January 26, 2012. The Phase II permit covered a total of 40.13 acres, of which 37.91 acres were considered permanently disturbed, and 2.22 acres were considered temporarily disturbed.

Proposed Project Description Modifications

A small knoll lies along the east side of the eBART project site adjacent to SR 4 and rises approximately 90 feet above the surrounding terrain. Construction of the parking lot and the maintenance facility will include excavation of the north side of the knoll to create a level grade for the maintenance buildings, yard, and tailtracks and to provide fill for the elevated parking lot and the future Slatten Ranch Road. The slope will be excavated to the top of the knoll, resulting in the removal of 200,000 cubic yards of soil. The excavation will leave a stable, finished face that will not exceed a 3:1 slope (horizontal:vertical). This activity was covered in the Phase II permit.

An additional 53,000 cubic yards of soil is required to provide fill for the parking lot. In order to reduce overall environmental effects, such as truck traffic, the eBART project has always intended to balance cut and fill on-site. To provide this additional fill, 2.56 acres on the south side of the knoll would be excavated. (Approximately 2.25 acres of this excavation would be net new grading.) This additional grading was not identified in the Phase II PSR and agreement, because at that time, the location of the additional excavation was still in question. This application, Phase II - Addendum 1.0, covers the additional acreage.

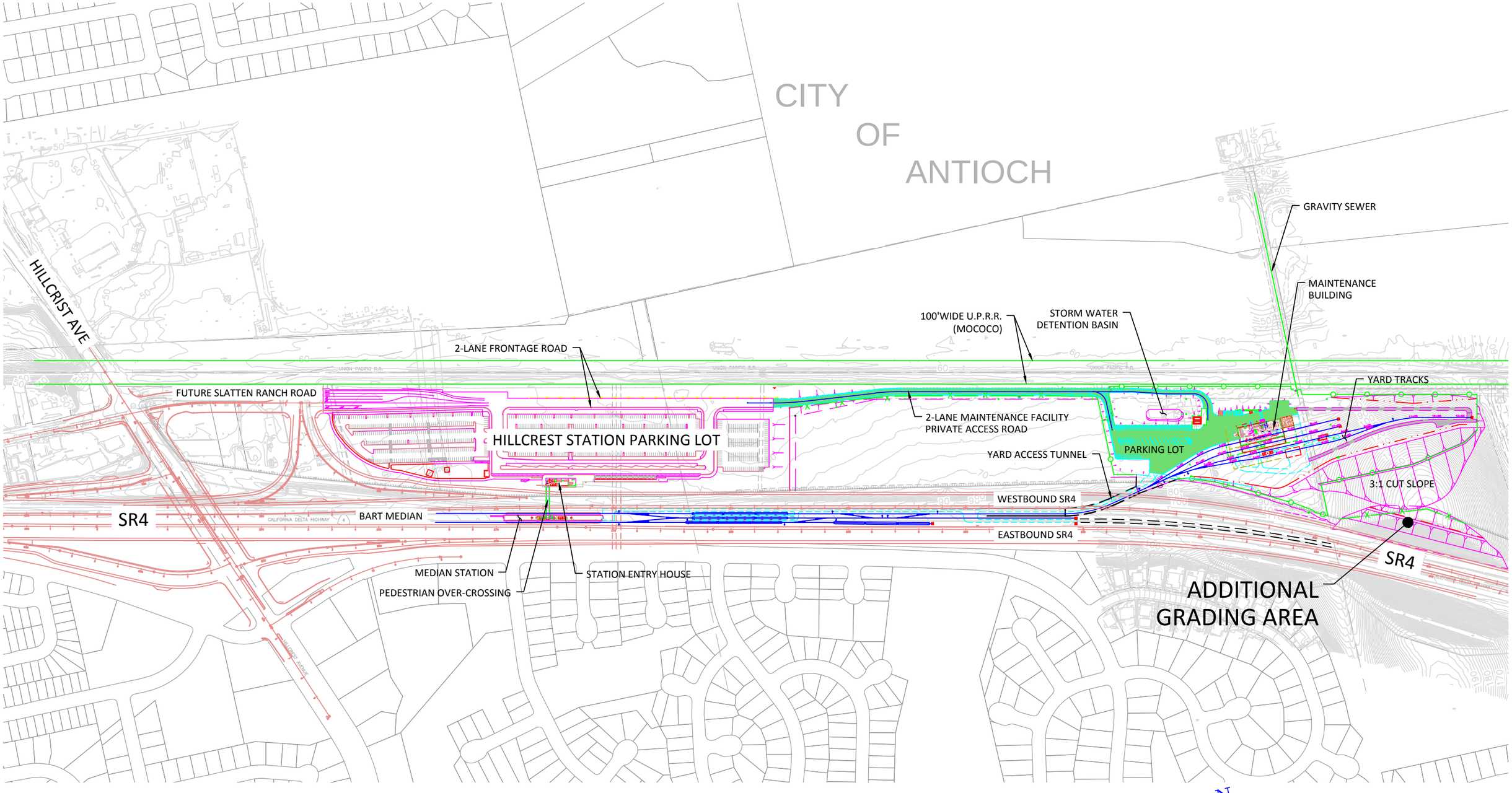
The proposed grading lies on the south side of the knoll adjacent to SR 4 and straddles two properties: the FKP property north of the SR 4 right-of way and the a portion of the Caltrans SR 4 right-of-way itself. Implementation of the grading program requires an encroachment permit from Caltrans. The location of the additional excavation is indicated at the easternmost (right side) of

Figure 3A. Figure 1 illustrates the plan view of the proposed excavation and Figure 2 illustrates the cross sections. Table 1 identifies the parcels where the additional grading would be located.

TABLE 1.
eBART PHASE II - ADDENDUM 1.0 – AFFECTED PARCELS

Project Component/ Assessor Parcel Number	Owner	Total Acreage of Parcel (approx)	Acreage Required for the Project (approx)
Additional Grading			
052-052-018	FKP, Inc.	20.39[a]	0.66[a]
Not Applicable[b]	Caltrans	52.17	1.90

[a.] The portion of the total parcel acreage not acquired by BART will remain with the current property owners.
[b.] Because state-owned parcels are not taxable, they are not assigned assessor's parcel numbers.



N

TENTATIVE & PRELIMINARY
FOR DISCUSSION PURPOSES ONLY

SCALE:NTS

04.05.12
HILLCREST TERMINAL CONSERVATION EXHIBIT 2A R1

Hillcrest Parking Lot and Maintenance Facility Complex

OVERALL SITE PLAN

SAN FRANCISCO BAY AREA
RAPID TRANSIT DISTRICT

PGH WONG ENGINEERING, INC.
CONSULTING ENGINEERS

EAST CONTRA COSTA BART EXTENSION

3A

NOTES:

1. UPON COMPLETION OF ALL GRADING OPERATIONS WITHIN STATE R/W, CONTRACTOR SHALL HYDROSEED ALL DISTURBED AREAS.
2. CONTRACTOR SHALL INSTALL COIR EROSION CONTROL MATS, WHEN NEEDED TO ESTABLISH VEGETATION ON SLOPE.

3:1 CUT SLOPE

3:1 CUT SLOPE

LIMITS OF PROPOSED BART CONTRACT GRADING FOR MAINTENANCE FACILITY

LIMITS OF PROPOSED BART CONTRACT GRADING WITHIN STATE R/W

4:1 CUT SLOPE

STATE R/W

PHOTO 1

℄ ECL

PHOTO 3

WESTBOUND SR4

℄ ECR

EASTBOUND SR4

PHOTO 4

PHOTO 2

EX 18"SD

EX 310

EX 54"SD

EX INLET

SR4 P.M. 29.9

CALIFORNIA DELTA HIGHWAY

N

40' 0' 40' 80'

GRAPHIC SCALE

04.10.12

PROPOSED-EARTHWORK-EXHBIT_r5.dwg

Site Plan

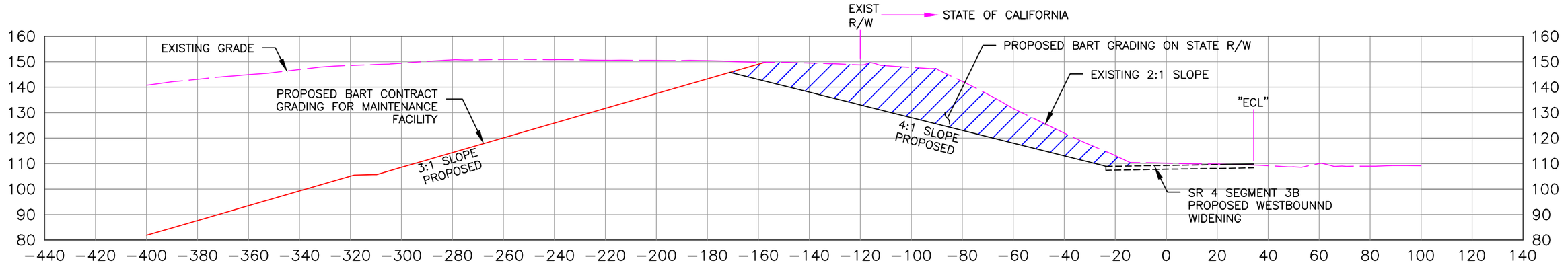
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

PGH WONG ENGINEERING, INC. CONSULTING ENGINEERS

STATE ROUTE 4 - Westbound Grading

East Contra Costa BART Extension

1



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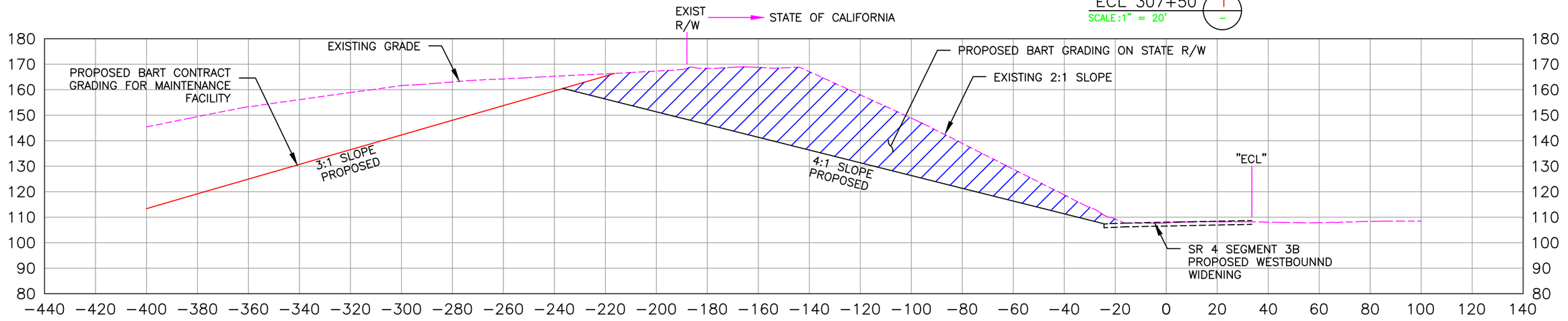

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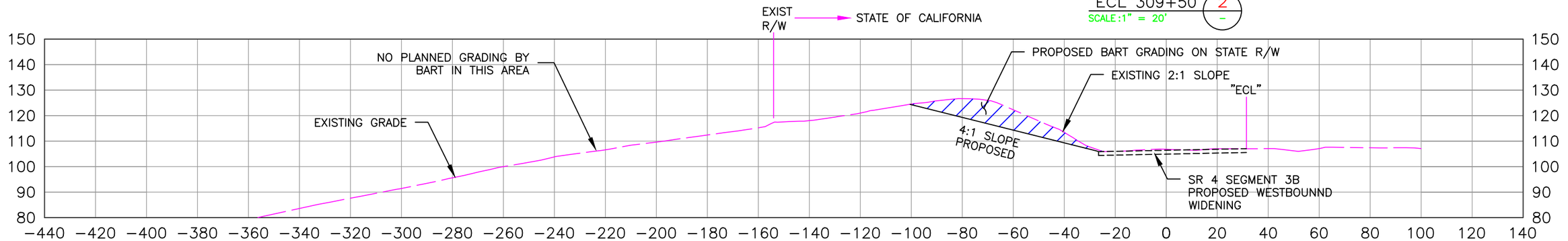


"ECL" 312+50 (3)
SCALE:1" = 20'

20' 0' 20' 40'
GRAPHIC SCALE

04.10.12
PROPOSED-EARTHWORK-EXHBIT_r5.dwg

Cross Section

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

PGH WONG ENGINEERING, INC. CONSULTING ENGINEERS

STATE ROUTE 4 - Westbound Grading

East Contra Costa BART Extension

2

II. Existing Conditions and Impacts

Land Cover Types

Land cover surveys were conducted for the Phase II PSR, and the area proposed for additional excavation was resurveyed for this application.[1] There are two land cover types in the area where the additional excavation is proposed: ruderal and non-native grassland. In general, the non-native grassland is located on the knoll north of the Caltrans right-of-way and the ruderal habitat is located within the Caltrans right-of-way. Representative photos of the project site are provided below.

Table 2 provides the acreages for the land cover types found within the additional disturbed area. The additional excavation would disturb 2.56 acres. This area of disturbance affects a portion of APN 052-052-018 and the Caltrans SR 4 right-of-way.

TABLE 2
EBART PHASE II-ADDENDUM 1.0 – PROJECT SITE LAND COVER TYPES IN ACRES

Impact Acres of the Project:	Additional Excavation	Additional Excavation
Land Cover Type	Acreage of Land to be "Permanently Disturbed" by Project[a]	Acreage of Land to be "Temporarily Disturbed" by Project[a]
Grassland		
☒ Annual grassland	0.66	0.00
☒ Ruderal	1.90	0.00
Total (Acres to be impacted)	**2.56**	**0.00**

Biological Survey Results

A biological field survey was conducted on March 28, 2012 by Cardno ENTRIX. (The survey report is provided as Appendix A to this document.) The vegetation community in the expansion area consists primarily of disturbed non-native annual grassland and ruderal vegetation. The portion along the Caltrans ROW perimeter fence has been disked for a firebreak, and most of the southern portion of the expansion area consists of a steep hillside cut face adjacent to and facing SR 4 that likely has received erosion control treatments during the construction of SR 4.

Plant species observed during the survey include wild oats (*Avena fatua*), ripgut brome (*Bromus diandrus*), soft chess (*Bromus hordeaceus*), Italian ryegrass (*Lolium multiflorum*), foxtail barley (*Hordeum murinum* ssp. *leporinum*), wild mustard (*Brassica* sp.), clover (*Trifolium* sp.), prickly ox-tongue (*Picris echioides*), lupine (*Lupinus bicolor*), California manroot (*Marah fabacea*), red stemmed filaree (*Erodium cicutarium*), wild radish (*Raphanus sativa*), common fiddleneck (*Amsinckia menziesii*), yellow star thistle (*Centaurea solstitialis*), milk thistle (*Silybum marianum*),

[1] Field survey conducted by Cardno Entrix, March 28, 2012.

curly dock (*Rumex crispus*), and red maids (*Calandrinia ciliata*). Tree cover is very sparse, consisting only of a few young blue gum (*Eucalyptus globulus*).

Wildlife species observed during the survey included red-tailed hawk (*Buteo jamaicensis*), American crow (*Corvus brachyrhynchos*), Brewer's blackbird (*Euphagus cyanocephalus*), American kestrel (*Falco sparverius*), mourning dove (*Zenaida macroura*), California ground squirrel (*Spermophilus beecheyi*), and black-tailed hare (*Lepus californicus*).

The expansion area overall is highly disturbed, and appears to be subject to regular maintenance activities by Caltrans. No nests were observed in any of the trees in the expansion area, therefore no nesting birds are present there. No ground squirrel burrows were observed in the expansion area, so the expansion area is not occupied by burrowing owl. No special-status plant species were observed during the survey. All plants observed were identified to a level that allowed them to be eliminated as a possible special status species. All species were found to be non-native annual grasses or forbs, or were common and widespread native species. Based on the lack of special-status species or nesting bird observations, the inclusion of the expansion area into the Hillcrest Station Parking Facility and Maintenance Yard project area will not result in the loss of any special-status species or nesting birds.

Tree Survey and Tree Removal.

As part of the biological survey conducted on March 28, 2012, the survey team noted that tree cover is very sparse, consisting of seven young blue gum trees (Eucalyptus globules). All seven trees would be removed as part of the expanded grading.

Jurisdictional Wetlands and Waters

There are no jurisdictional wetlands or waters within the area of disturbance. A swale that supports freshwater marsh habitat lies east of the project site. The eBART project as a whole has been designed to avoid this wetland feature and will maintain a stream buffer zone of about 80 feet. The footprint of the additional grading has maintained a distance of at least 90 feet from the swale. The project will implement the appropriate Best Management Practices as required by the project's NPDES and RWQCB permits to ensure that no sediments or pollutants enter the wetland area.

Photo 1: View of Knoll looking east from shoulder of SR 4

Photo 2: View of knoll looking west from shoulder of SR 4.

Photo 3: View of knoll from eastbound lane of SR 4.

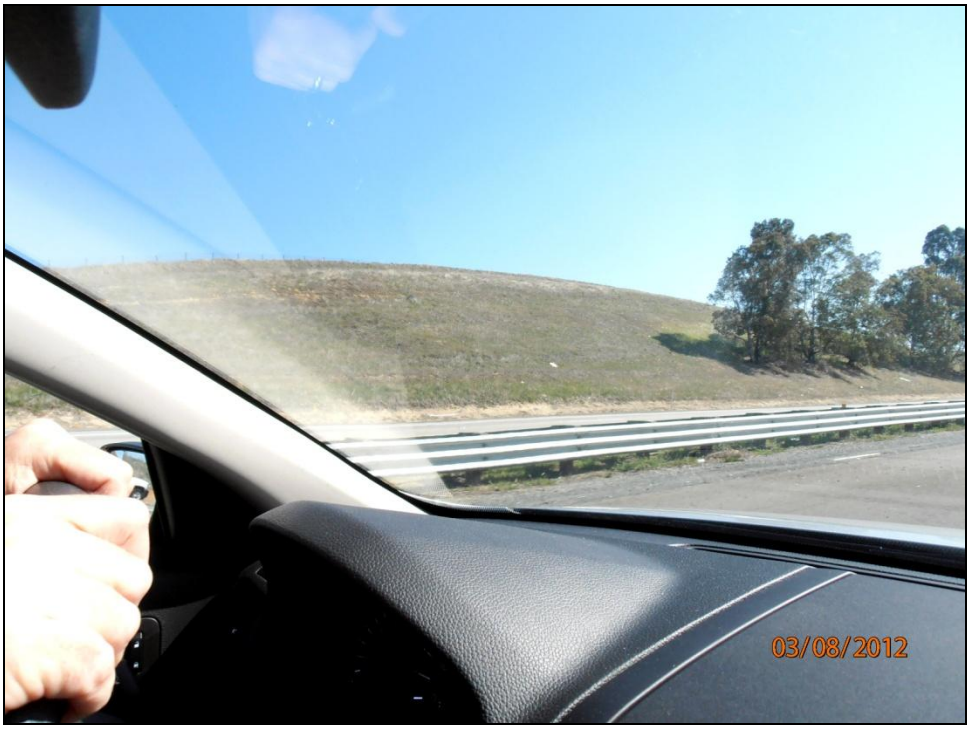


Photo 4: View of knoll from eastbound lane of SR 4.

III. Species-Specific Monitoring and Avoidance Requirements

This section discusses subsequent actions that are necessary to ensure project compliance with HCP/NCCP requirements. Survey requirements and Best Management Practices pertaining to selected covered wildlife species are detailed in Section 6.4.3, *Species-Level Measures*, beginning on page 6-36 of the Final HCP/NCCP.

Preconstruction Surveys for Selected Covered Wildlife

Table 4 of the Phase II PSR identified the species that require preconstruction surveys or notifications, based on planning surveys for the Phase II PSR. All preconstruction surveys shall be conducted in accordance with the requirements set forth in Section 6.4.3, Species-Level Measures, and Table 6-1 of the HCP/NCCP.

TABLE 4
APPLICABLE PRECONSTRUCTION SURVEY AND NOTIFICATION REQUIREMENTS

(Based on Land Cover Types and Habitat Elements identified in Table 3a of the Phase II PSR)

Species	Preconstruction Survey and Notification Requirements
☐ None	
☒ San Joaquin kit fox (p. 6-38)	Map all dens (>5 in. diameter) and determine status. Determine if breeding or denning foxes are in the project area. Provide written preconstruction survey results to FWS within 5 working days after surveying.
☒ Western burrowing owl (p. 6-40)	Map all burrows and determine status. Document use of habitat (e.g. breeding, foraging) in/near disturbance area (within 500 ft.)
☐ Giant garter snake (p. 6-44)	Delineate aquatic habitat up to 200 ft. from water's edge. Document any sightings of garter snake.
☐ California tiger salamander (p. 6-46) (notification only)	Provide written notification to USFWS and CDFG regarding timing of construction and likelihood of occurrence in the project area.
☐ California red-legged frog (p. 6-47) (notification only)	Provide written notification to USFWS and CDFG regarding timing of construction and likelihood of occurrence in the project area.
☐ Covered shrimp species (p. 6-47)	Document and evaluate use of all habitat features (e.g., vernal pools, rock outcrops). Document occurrences of covered shrimp.
☐ Townsend's big-eared bat (p. 6-37)	Determine if site is occupied or shows signs of recent occupation (guano).
☒ Swainson's hawk (p. 6-42)	Determine whether nests are occupied.
☐ Golden eagle (p. 6-39)	Determine whether nests are occupied.

Note: Page numbers refer to the HCP/NCCP.

Burrowing Owl

Prior to any ground disturbance related to covered activities, a USFWS/CDFG approved biologist will conduct a preconstruction survey in areas identified in the planning surveys as having potential burrowing owl habitat. The surveys will establish the presence or absence of western burrowing owl and/or habitat features and evaluate use by owls in accordance with CDFG survey guidelines (California Department of Fish and Game 1993).

On the parcel where the activity is proposed, the biologist will survey the proposed disturbance footprint and a 500-foot radius from the perimeter of the proposed footprint to identify burrows and owls. Adjacent parcels under different land ownership will not be surveyed. Surveys should take place near sunrise or sunset in accordance with CDFG guidelines. All burrows or burrowing owls will be identified and mapped. Surveys will take place no more than 30 days prior to construction. During the breeding season (February 1–August 31), surveys will document whether burrowing owls are nesting in or directly adjacent to disturbance areas. During the non-breeding season (September 1–January 31), surveys will document whether burrowing owls are using habitat in or directly adjacent to any disturbance area. Survey results will be valid only for the season (breeding or non-breeding) during which the survey is conducted.

Swainson's Hawk

Prior to any ground disturbance related to covered activities that occurs during the nesting season (March 15–September 15), a qualified biologist will conduct a preconstruction survey no more than 1 month prior to construction to establish whether Swainson's hawk nests within 1,000 feet of the project site are occupied. If potentially occupied nests within 1,000 feet are off the project site, then their occupancy will be determined by observation from public roads or by observations of Swainson's hawk activity (e.g., foraging) near the project site. If nests are occupied, minimization measures and construction monitoring will be implemented as described below under construction monitoring and avoidance/minimization measures. Note that BART is seeking a variance from the 1,000-foot survey distance from the project site for a known Swainson's hawk nest outside of the project area. The rationale for this request is presented below under construction monitoring and avoidance/minimization measures.

San Joaquin Kit Fox

Prior to any ground disturbance related to covered activities, a USFWS/CDFG–approved biologist will conduct a preconstruction survey in areas identified in the planning surveys as supporting suitable breeding or denning habitat for San Joaquin kit fox. The surveys will establish the presence or absence of San Joaquin kit foxes and/or suitable dens and evaluate use by kit foxes in accordance with USFWS survey guidelines (U.S. Fish and Wildlife Service 1999). Preconstruction surveys will be conducted within 30 days of ground disturbance. On the parcel where the activity is proposed, the biologist will survey the proposed disturbance footprint and a 250-foot radius from the perimeter of the proposed footprint to identify San Joaquin kit foxes and/or suitable dens. Adjacent parcels under different land ownership will not be surveyed. The status of all dens will be determined and mapped. Written results of preconstruction surveys will be submitted to USFWS within 5 working days after survey completion and before the start of ground disturbance. Concurrence is not required prior to initiation of covered activities. If San Joaquin kit foxes and/or suitable dens are identified in the survey area, the measures described below will be implemented.

Construction Monitoring & Avoidance and Minimization Measures for Selected Covered Species

Table 5 of the Phase II PSR identifies the construction monitoring requirements and avoidance measures to be implemented in the event that preconstruction surveys described in Table 4 detect the covered species. Construction Monitoring Plan Requirements are detailed in Section 6.3.3, Construction Monitoring, of the Final HCP/NCCP. Species-level monitoring and avoidance requirements are described in detail in Section 6.4.3 of the Final HCP/NCCP.

Before implementing a covered activity, the applicant will develop and submit a construction-monitoring plan to the Implementing Entity[2] for approval.

TABLE 5
APPLICABLE CONSTRUCTION MONITORING REQUIREMENTS

Species Assessed by Preconstruction Surveys	Monitoring Action Required if Species Detected
☐ None	N/A
☒ San Joaquin kit fox (p. 6-38)	Establish exclusion zones (>50 ft) for potential dens. Establish exclusion zones (>100 ft) for known dens. Notify USFWS of occupied natal dens.
☒ Western burrowing owl (p. 6-40)	Establish buffer zones (250 ft) around nests. Establish buffer zones (160 ft) around burrows.
☐ Giant garter snake (p. 6-44)	Delineate 200-ft buffer around potential habitat. Provide field report on monitoring efforts. Stop construction activities if snake is encountered; allow snake to passively relocate. Remove temporary fill or debris from construction site. Mandatory training for construction personnel.
☐ Covered shrimp species (p. 6-47)	Establish buffer around outer edge of all hydric vegetation associated with habitat (50 feet of limit of immediate watershed supporting the wetland, whichever is larger). Mandatory training for construction personnel.
☒ Swainson's hawk (p. 6-42)	Establish 1,000-ft buffer around active nest and monitor compliance unless reduced per BART's variance request described below.
☐ Golden eagle (p. 6-39)	Establish 0.5-mile buffer around active nest and monitor compliance.

Construction Monitoring & Avoidance and Minimization Measures as Required for Selected Covered Wildlife in Table 5

This section describes the construction monitoring and avoidance and minimization measures applicable to the species checked in Table 5 of the PSR. The construction monitoring & avoidance and minimization measures requirements are described in detail in Section 6.4.3, Species-Level Measures, of the HCP/NCCP.

[2] The East Contra Costa County Habitat Conservancy must review and approve the plan **prior** to the commencement of all covered activities (i.e. construction).

Western Burrowing Owl

For any potential burrowing owl nest burrows that have been identified during the preconstruction surveys, BART will implement burrowing owl exclusion methods for those potential burrows in the project area prior to the burrowing owl nesting season. These methods may include:

- blocking the burrow entrances with one way doors to ensure no owls are present in those burrows,
- collapsing burrows that have been confirmed as unoccupied by burrowing owls, and/or
- planting new vegetation (fast growing grasses and forbs) entirely covering the burrow at a height of approximately 24 to 36 inches above the ground to discourage both ground squirrel and burrowing owl use of the burrow. This method must be completed well in advance of the nesting season to ensure the vegetation has time to mature to the desired height before the nesting season. Vegetation is to be retained until construction begins.

If burrowing owls are found during the breeding season (February 1–August 31), BART will avoid all nest sites that could be disturbed by project construction during the remainder of the breeding season or while the nest is occupied by adults or young. Construction may occur during the breeding season if a qualified biologist monitors the nest and determines that the birds have not begun egg-laying and incubation or that the juveniles from the occupied burrows have fledged. During the non-breeding season (September 1–January 31), BART will avoid the owls and the burrows they are using, if possible. Avoidance will include the establishment of a buffer zone of 250 feet around each occupied burrow during the breeding season and 160 feet around burrows being used during the non-breeding season. The buffers will be delineated by highly visible, temporary construction fencing.

If occupied burrows for burrowing owls are not avoided, passive relocation will be implemented. Owls should be excluded from burrows within the160-foot buffer zone by installing one-way doors in burrow entrances. These doors should be in place for 48 hours prior to excavation. The project area should be monitored daily for 1 week to confirm that the owl has abandoned the burrow. Whenever possible, burrows should be excavated using hand tools and refilled to prevent reoccupation (California Department of Fish and Game 1995). Plastic tubing or a similar structure should be inserted in the tunnels during excavation to maintain an escape route for any owls inside the burrow.

Swainson's Hawk

Avoidance and Minimization and Construction Monitoring.

During the nesting season (March 15–September 15), covered activities within 1,000 feet of occupied nests or nests under construction will be prohibited to prevent nest abandonment. If site-specific conditions or the nature of the covered activity (e.g., steep topography, dense vegetation, limited activities) indicate that a smaller buffer could be used, the Conservancy will coordinate with CDFG/USFWS to determine the appropriate buffer size. If young fledge prior to September 15, covered activities can proceed normally. If the active nest site is shielded from view and noise from the project site by other development, topography, or other features, the project applicant can apply to the Conservancy for a waiver of this avoidance measures. Any

waiver must also be approved by USFWS and CDFG. While the nest is occupied, activities outside the buffer can take place.

All active nest trees will be preserved on site, if feasible. Nest trees, including non-native trees, lost to covered activities will be mitigated by the project proponent according to the requirements below.

Mitigation for Loss of Nest Trees

The loss of non-riparian Swainson's hawk nest trees will be mitigated by the project proponent by:

- If feasible on-site, planting 15 saplings for every tree lost with the objective of having at least 5 mature trees established for every tree lost according to the requirements listed below.

AND either

1. Pay the Implementing Entity an additional fee to purchase, plant, maintain, and monitor 15 saplings on the HCP/NCCP Preserve System for every tree lost according to the requirements listed below, OR

2. The project proponent will plant, maintain, and monitor 15 saplings for every tree lost at a site to be approved by the Implementing Entity (e.g., within an HCP/NCCP Preserve or existing open space linked to HCP/NCCP preserves), according to the requirements listed below.

The following requirements will be met for all planting options:

- Tree survival shall be monitored at least annually for 5 years, then every other year until year 12. All trees lost during the first 5 years will be replaced. Success will be reached at the end of 12 years if at least 5 trees per tree lost survive without supplemental irrigation or protection from herbivory. Trees must also survive for at least three years without irrigation.

- Irrigation and fencing to protect from deer and other herbivores may be needed for the first several years to ensure maximum tree survival.

- Native trees suitable for this site should be planted. When site conditions permit, a variety of native trees will be planted for each tree lost to provide trees with different growth rates, maturation, and life span, and to provide a variety of tree canopy structures for Swainson's hawk. This variety will help to ensure that nest trees will be available in the short term (5-10 years forcottonwoods and willows) and in the long term (e.g., Valley oak, sycamore). This will also minimize the temporal loss of nest trees.

- Riparian woodland restoration conducted as a result of covered activities (i.e., loss of riparian woodland) can be used to offset the nest tree planting requirement above, if the nest trees are riparian species.

- Whenever feasible and when site conditions permit, trees should be planted in clumps together or with existing trees to provide larger areas of suitable nesting habitat and to create a natural buffer between nest trees and adjacent development (if plantings occur on the development site).

- Whenever feasible, plantings on the site should occur closest to suitable foraging habitat outside the UDA.

- Trees planted in the HCP/NCCP preserves or other approved offsite location will occur within the known range of Swainson's hawk in the inventory area and as close as possible to high-quality foraging habitat.

San Joaquin Kit Fox

Avoidance and Minimization Requirements.

The following avoidance and minimization measures will be implemented:

- If a San Joaquin kit fox den is discovered in the proposed development footprint, the den will be monitored for 3 days by a USFWS/CDFG–approved biologist using a tracking medium or an infrared beam camera to determine if the den is currently being used.

- Unoccupied dens should be destroyed immediately to prevent subsequent use.

- If a natal or pupping den is found, USFWS and CDFG will be notified immediately. The den will not be destroyed until the pups and adults have vacated and then only after further consultation with USFWS and CDFG.

- If kit fox activity is observed at the den during the initial monitoring period, the den will be monitored for an additional 5 consecutive days from the time of the first observation to allow any resident animals to move to another den while den use is actively discouraged. For dens other than natal or pupping dens, use of the den can be discouraged by partially plugging the entrance with soil such that any resident animal can easily escape. Once the den is determined to be unoccupied it may be excavated under the direction of the biologist. Alternatively, if the animal is still present after 5 or more consecutive days of plugging and monitoring, the den may have to be excavated when, in the judgment of a biologist, it is temporarily vacant (i.e., during the animal's normal foraging activities).

Construction Monitoring.

If dens are identified in the survey area outside the proposed disturbance footprint, exclusion zones around each den entrance or cluster of entrances will be demarcated. The configuration of exclusion zones should be circular, with a radius measured outward from the den entrance(s). No covered activities will occur within the exclusion zones. Exclusion zone radii for potential dens will be at least 50 feet and will be demarcated with four to five flagged stakes. Exclusion zone radii for known dens will be at least 100 feet and will be demarcated with staking and flagging that encircles each den or cluster of dens but does not prevent access to the den by kit fox.

IV. Landscape and Natural Community-Level Avoidance and Minimization Measures

Similar to the original parking lot, access road, and maintenance area covered in the Phase II agreement, the expanded grading area is non-native pasture land and ruderal habitat. The avoidance and minimization measures in the Phase II PSR and agreement for the eBART project as a whole would also apply to the expanded grading area. The following section outlines the HCP/NCCP measures that would be implemented. The additional project area will not alter the implementation of these measures.

- Conservation Measure 1.10. Maintain Hydrologic Conditions and Minimize Erosion
- Conservation Measure 1.11. Avoid Direct Impacts on Extremely Rare Plants, Fully Protected Wildlife Species, or Covered Migratory Birds
- Conservation Measure 1.7. Establish Stream Setbacks
- HCP/NCCP Conservation Measure 2.12. Wetland, Pond, and Stream Avoidance and Minimization
- Conservation Measure 1.6. Minimize Development Footprint Adjacent to Open Space
- Conservation Measure 1.8. Establish Fuel Management Buffer to Protect Preserves and Property
- Conservation Measure 1.12. Implement Best Management Practices for Rural Road Maintenance
- Conservation Measure 1.13. Implement Best Management Practices for Flood Control Facility Maintenance
- Conservation Measure 1.14. Design Requirements for Covered Roads outside the Urban Development Area

V. Mitigation Measures

The fee was based on the current Fee Calculator Worksheet for Zone IV Impacts (March 15, 2012 Template) for permanent disturbance. The fee for Addendum 1.0 covers permanent impacts to 2.56 acres of ruderal and grassland land cover types. BART would pay this development fee ($40.643.79), plus a 50 percent contribution to recovery of endangered species ($20,321.89) or one-half of the development fee for permanent disturbance. Total fees owed by BART are $60,965.68. All fees shall be paid within 30 days of receiving a total fee amount and appropriate invoice from the East Contra Costa County Habitat Conservancy. Details on this fee calculation are provided in Exhibit 1 on the following page.

Exhibit 1: HCP/NCCP FEE CALCULATOR WORKSHEET

PROJECT APPLICANT INFO:

Project Applicant: San Francisco Bay Area Rapid Transit District

Project Name: eBART Phase II - Addendum 1.0

APN (s): 052-052-018 and State Route 4 Right-of-Way

Date: April 19, 2012 Jurisdiction: Participating Special Entity

DEVELOPMENT FEE (see appropriate ordinance or HCP/NCCP Figure 9-1 to determine Fee Zone)

	Acreage of land to be permanently disturbed (from Table 1)[1]		Fee per Acre (subject to change on 3/15/13)		
	Full Development Fee				
Fee Zone 1		x	$10,584.32	=	$0.00
Fee Zone 2		x	$21,168.64	=	$0.00
Fee Zone 3		x	$5,292.61	=	$0.00
Fee Zone 4[2]	2.56	x	$15,876.48	=	$40,643.79
			Development Fee Total	=	**$40,643.79**

****WETLAND MITIGATION FEE**	**Acreage of wetland**		**Fee per Acre (subject to change on 3/15/13)**		
Riparian woodland / scrub		x	$69,992.40	=	$0.00
Perennial Wetland		x	$120,428.10	=	$0.00
Seasonal Wetland		x	$252,178.50	=	$0.00
Alkali Wetland		x	$234,680.40	=	$0.00
Ponds		x	$120,428.10	=	$0.00
Aquatic (open water)		x	$59,699.40	=	$0.00
Slough / Channel		x	$127,633.20	=	$0.00
	Linear Feet				
Streams					
Streams 25 Feet wide or less (Fee is per Linear Foot)		x	$418.93	=	$0.00
Streams greater than 25 feet wide (Fee is per Linear Foot)		x	$630.96	=	$0.00
			Wetland Mitigation Fee Total	=	**$0.00**

FEE REDUCTION

Development Fee reduction (authorized by Implementing Entity) for land in lieu of fee	
Development Fee reduction (up to 33%, but must be approved by Conservancy) for permanent assessments	
Wetland Mitigation Fee reduction (authorized by Implementing Entity) for wetland restoration/creation performed by applicant	
Reduction Total =	**$0.00**

CALCULATE FINAL FEE

Development Fee Total		$40,643.79
Wetland Mitigation Fee Total	+	$0.00
Fee Subtotal		$40,643.79
Contribution to Recovery	+	$20,321.89
TOTAL AMOUNT TO BE PAID	=	**$60,965.68**

Notes:

1 City/County Planning Staff will consult the land cover map in the Final HCP/NCCP and will reduce the acreage subject to the Development Fee by the acreage of the subject property that was identified in the Final HCP/NCCP as urban, turf, landfill or aqueduct land cover.

2 "Fee Zone 4" is not shown on Figure 9.1 of the HCP/NCCP but refers to the fee applicable to those few covered acitivities located in northeastern Antioch (see page 9-21 of the HC

Template date: March 15, 2012

APPENDIX A

General Habitat assessment, Rare Plant, and nesting bird Survey for Bay Area Rapid Transit's eBART Phase 2 Hillcrest Station Parking Lot and Maintenance Facility Project Expansion Area

Cardno-ENTRIX

March 30, 2012

Memorandum

Cardno ENTRIX

701 University Avenue
Suite 200
Sacramento, CA 95825
USA

Phone 916 923 1097
Toll-free 800 368 7511
Fax 916 923 6251
www.cardno.com

www.cardnoentrix.com

Date: March 30, 2012

To: Don Dean
Wayne Lind
BART
San Francisco Bay Area Rapid Transit
300 Lakeside Drive
Oakland, CA 94612

From: Sam Bacchini

RE: **General Habitat Assessment, Rare Plant, and Nesting Bird Survey for Bay Area Rapid Transit's eBART Phase 2 Hillcrest Station Parking Lot and Maintenance Facility Project Expansion Area**

Introduction

This memorandum report describes the survey methodology and results of a General Habitat Assessment, Rare Plant, and Nesting Bird Survey for the expansion area for the Hillcrest Avenue Station parking facility and maintenance yard project (Project Area) which is a part of Bay Area Rapid Transit's (BART) eBART Phase 2 project. The expansion area consists of the hill top and southern face of the hill at the eastern end of the Project Area. The expansion area footprint is detailed in the attached figure. The purpose of this report is to document what biological resources are present in the expansion area to support the HCP permit amendment for the expanded project area.

Methods

A general habitat assessment, rare plant survey, and nesting bird survey was conducted by Cardno ENTRIX biologists Sam Bacchini, and Carlos Alvarado on March 28, 2012. Surveys consisted of walking transects to cover the entire expansion area, and identify all habitat types occurring within the project boundaries. Trees on the site were closely examined for evidence of nesting raptors or other migratory birds. Plant species observed were identified to a level that allowed a determination that they were not one of the special-status plant species targeted during the survey.

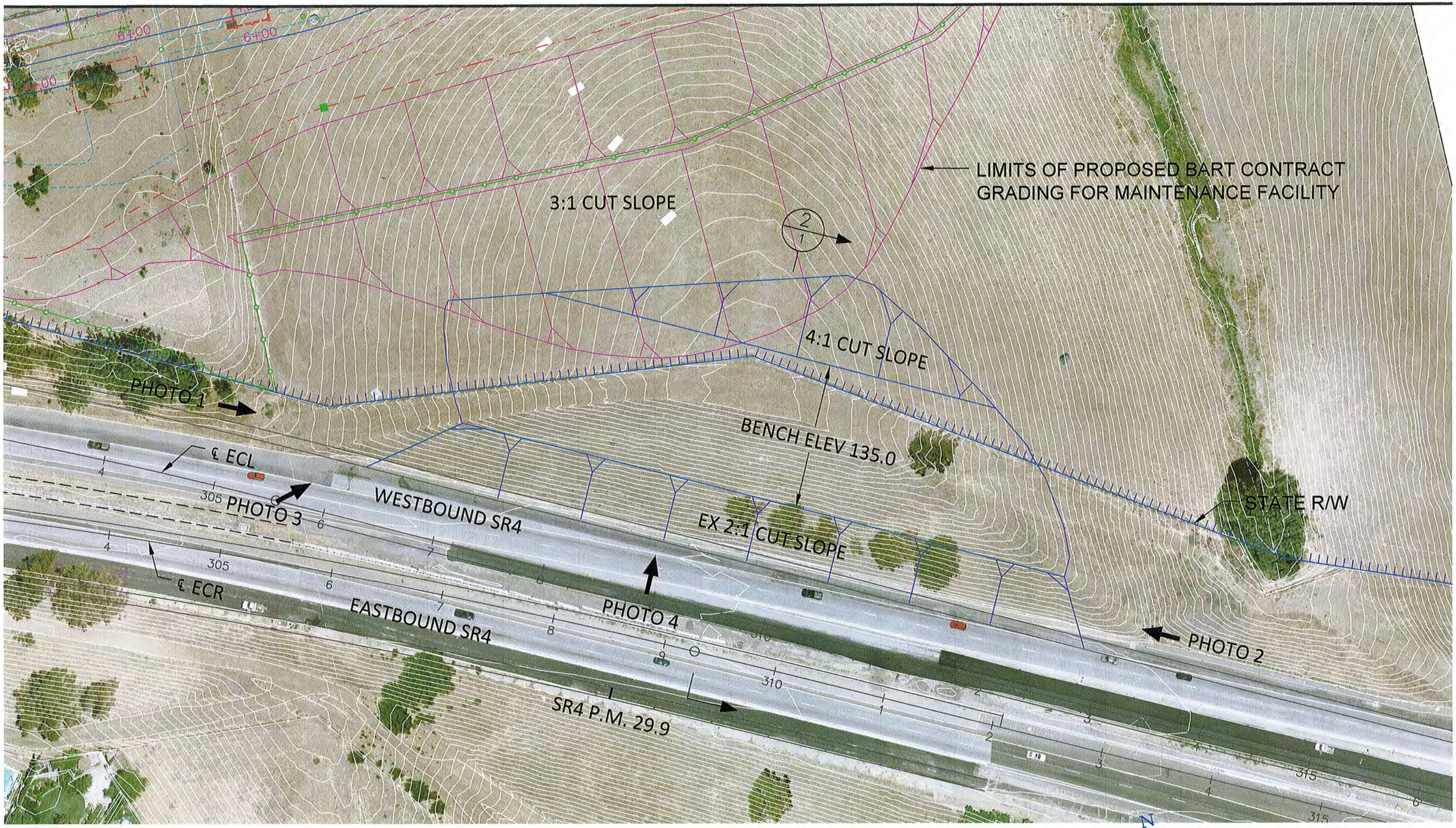
The list of special-status plant species targeted during the survey was derived from *Table 3A Species-Specific Planning Survey Requirements Triggered by Land Cover Types and Habitat Elements on the project site* in the eBART Phase II Extension Project Planning Survey Report, and included the following.

- Alkali milkvetch (*Astragalus tener* ssp. *tener*)
- Big tarplant (*Blepharizonia plumosa*)
- Brewer's dwarf flax (*Hesperolinon breweri*)
- Contra Costa goldfields (*Lasthenia conjugens*)
- Diamond-petaled poppy (*Eschscholzia rhombipetala*)
- Large-flowered fiddleneck (*Amsinckia grandiflora*)
- Mount Diablo buckwheat (*Eriogonum truncatum*)
- Mount Diablo fairy-lantern (*Calochortus pulchellus*)
- Round-leaved filaree (*California macrophylla*)[1]
- Showy madia (*Madia radiata*)

Results

The vegetation community in the expansion area consists primarily of disturbed non-native annual grassland and ruderal vegetation. The portion along the Caltrans ROW perimeter fence has been disked for a firebreak, and most of the southern portion of the expansion area consists of a steep hillside cut face adjacent to/facing Hwy 4 that likely received erosion control treatments during the construction of Hwy 4. Plant species observed during the survey include wild oats (*Avena fatua*), ripgut brome (*Bromus diandrus*), soft chess (*Bromus hordeaceus*), Italian ryegrass (*Lolium multiflorum*), foxtail barley (*Hordeum murinum* ssp. *leporinum*), wild mustard (*Brassica* sp.), clover (*Trifolium* sp.), prickly ox-tongue (*Picris echioides*), lupine (*Lupinus bicolor*), California manroot (*Marah fabacea*), red stemmed filaree (*Erodium cicutarium*), wild radish (*Raphanus sativa*), common fiddleneck (*Amsinckia menziesii*), yellow star thistle (*Centaurea solstitialis*), milk thistle (*Silybum marianum*), curly dock (*Rumex crispus*), and red maids (*Calandrinia ciliata*). Tree cover is very sparse, consisting only of a few young blue gum (*Eucalyptus globulus*). Wildlife species observed during the survey included red-tailed hawk (*Buteo jamaicensis*), American crow (*Corvus brachyrhynchos*), Brewer's blackbird (*Euphagus cyanocephalus*), American kestrel (*Falco sparverius*), mourning dove (*Zenaida macroura*), California ground squirrel (*Spermophilus beecheyi*), and black-tailed hare (*Lepus californicus*).

The expansion area overall is highly disturbed, and appears to be subject to regular maintenance activities by Caltrans. No nests were observed in any of the trees in the expansion area, therefore no nesting birds are present there. No ground squirrel burrows were observed in the expansion area, so the expansion area is not occupied by burrowing owl. No special-status plant species were observed during the survey. As stated in the methodology section above, all plants observed were identified to a level that allowed them to be eliminated as a possible special-status species. All species were found to be non-native annual grasses or forbs, or were common and widespread native species. Based on the lack of special-status species or nesting bird observations, the inclusion of the expansion area into the Hillcrest Station Parking Facility and Maintenance Yard project area will not result in the loss of any special-status species or nesting birds.



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PROPOSED-EARTHWORK-EXHBIT.dwg

Slope Grading Option B

Site Plan

BART
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

PGH WONG ENGINEERING, INC.
CONSULTING ENGINEERS

STATE ROUTE 4 - Westbound Grading

East Contra Costa BART Extension

1

Sheet 1 of 2

East Contra Costa BART Extension (eBART) Project Final EIR

Addendum 2

April 18, 2012

Prepared by:

San Francisco Bay Area Rapid Transit District
300 Lakeside Drive
Oakland, CA 94612

East Contra Costa BART Extension (eBART) Project Final EIR Addendum 2

1.0 Summary

Background

The San Francisco Bay Area Rapid Transit District (BART) is proposing to extend transit services into east Contra Costa County from its existing Pittsburg/Bay Point BART Station in the unincorporated community of Bay Point near the City of Pittsburg. The project is generally known as "eBART" in reference to the extension of service to the "East" portion of Contra Costa County. The Project consists of an approximately 10-mile extension of transit service in the median of State Route 4 (SR 4) from the current BART terminus in Contra Costa County at the Pittsburg/Bay Point BART Station to a point just east of Hillcrest Avenue in the City of Antioch.

The potential environmental effects of the eBART Project were presented in a Final Environmental Impact Report (FEIR) for the purposes of evaluating environmental impacts under the California Environmental Quality Act (Public Resources Code Section 21000, et seq., CEQA). On April 23, 2009, the FEIR for the project was certified by the BART Board of Directors, a Mitigation Monitoring and Reporting Plan (MMRP)[1] was adopted, and the eBART Project (Project) was adopted.

Modifications to the Project were evaluated as part of an Addendum to the Final EIR (2011 Addendum), which was considered by the BART Board on April 28, 2011, and the modifications to the project were adopted.

Purpose of Addendum

Section 15164 of the CEQA Guidelines allows a Lead Agency to prepare an Addendum to a previously certified EIR if some changes or additions are necessary, as long as none of the conditions described in Section 15162 requiring the preparation of a subsequent EIR have occurred. In brief, Section 15162 states that when an EIR has been certified, no subsequent EIR needs to be prepared for the project unless the Lead Agency determines, on the basis of substantial evidence in the light of the whole record, that there are substantial changes proposed in the project which require major revisions of the previous EIR, substantial changes occur with respect to the circumstances under which the project is undertaken, or there is new information of substantial importance regarding new significant effects, more severe effects, or the feasibility or effectiveness of mitigation measures.

[1] Mitigation Monitoring and Reporting Plan adopted April 23, 2009 and revised April 28, 2011.

Revisions to the Project

The eBART terminus in Antioch will be constructed along SR 4, east of Hillcrest Avenue. The project components at this location include the station platform in the median of SR 4 and the station entry house, station parking lot, access road, and maintenance facility adjacent to SR 4 on the north. Exhibit 1 illustrates the overall site plan for the eBART Station area at Hillcrest, which covers 40.13 acres.

A small knoll lies along the east side of the eBART project site adjacent to SR 4 and rises approximately 90 feet above the surrounding terrain. Construction of the parking lot and the maintenance facility will include excavation of the north side of the knoll to create a level grade for the maintenance buildings, yard, and tailtracks and to provide fill for the elevated parking lot and the future Slatten Ranch Road. The slope will be excavated to the top of the knoll, resulting in the removal of 200,000 cubic yards of soil.

An additional 53,000 cubic yards of soil is required to provide fill for the parking lot and access road. In order to reduce overall environmental effects, such as truck traffic, the eBART project intends to balance cut and fill on-site to the extent feasible. The 2011 Addendum evaluated the potential impacts of excavating this additional fill from the upper portion of the knoll for the purpose of the parking lot grading. Based on further refinement of the project design, 53,000 cubic yards (an additional 2.56 acres) would be excavated from the top and the south-facing slope of the knoll adjacent to State Route 4 (SR 4). This change is being evaluated as an option which may or may not be executed, depending on the circumstances as construction proceeds.

Determination

This Addendum to the eBART Project Final EIR revisits the analysis conducted in the Final EIR and 2011 Addendum and evaluates the potential effects of the additional grading at the Hillcrest Avenue Station. The additional grading was evaluated for all categories of impact analyzed in the Final EIR (transportation, land use, visual quality, etc.).

The analysis did not identify any substantial changes to the affected environment and did not identify any new or substantially more severe impacts not already identified in the Final EIR. All mitigation measures included in the Final EIR and MMRP would also apply to the Revised Project. Based on the evaluation presented in this Addendum, there is no substantial evidence in the light of the whole record that the conditions outlined in Section 15162 of the CEQA Guidelines requiring a subsequent EIR are met. Therefore, an EIR Addendum is appropriate.

2.0 Revisions to the Project

Background

The San Francisco Bay Area Rapid Transit District (BART) is proposing to extend transit services into east Contra Costa County from its existing Pittsburg/Bay Point BART Station in the unincorporated community of Bay Point near the City of Pittsburg. The project is generally known as "eBART" in reference to the extension of service to the "East" portion of Contra Costa County. The Project consists of an approximately 10-mile extension of transit service in the median of State Route 4 (SR 4) from the current BART terminus in Contra Costa County at the Pittsburg/Bay Point BART Station to a point just east of Hillcrest Avenue in the City of Antioch.

The eBART terminus in Antioch will be constructed along SR 4 east of Hillcrest Avenue. The project components at this location include the station platform in the median of SR 4 and the station entry house, parking lot, access road, and maintenance facility adjacent to SR 4 on the north. Exhibit 1 illustrates the overall site plan for the eBART Station area at Hillcrest, which covers 40.13 acres. The existing environment around the site has not changed substantially since the Final EIR was certified in 2009 and the 2011 Addendum was considered.

Proposed Additional Grading

A small knoll lies along the east side of the eBART project site adjacent to SR 4 and rises approximately 90 feet above the surrounding terrain. The location of the additional excavation is indicated at the easternmost (right side) of Exhibit 1. Construction of the parking lot and the maintenance facility will include excavation of the north side of the knoll to create a level grade for the maintenance buildings, yard, and tailtracks and to provide fill for the elevated parking lot and the future Slatten Ranch Road. The slope will be excavated to the top of the knoll, resulting in the removal of 200,000 cubic yards of soil. The excavation will leave a stable, finished face that will not exceed a 3:1 slope (horizontal:vertical) on the north side of the knoll.

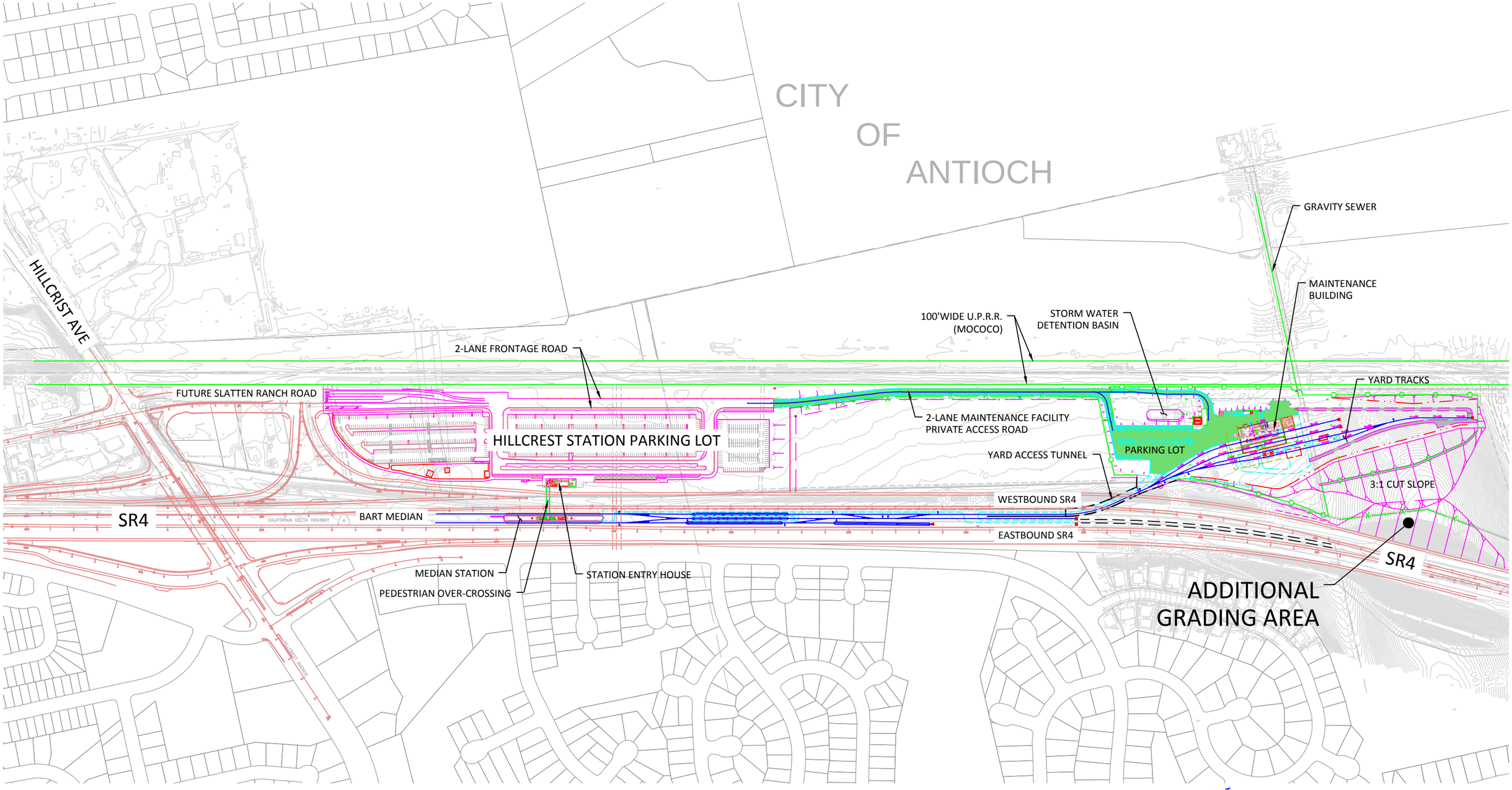
An additional 53,000 cubic yards of soil is required to provide fill for the parking lot and access road. In order to reduce overall environmental effects, such as truck traffic, the eBART project intends to balance cut and fill on-site to the extent feasible. The 2011 Addendum evaluated the potential impacts of excavating approximately 60,000 cubic yards of additional fill from the upper portion of the knoll for the purpose of the parking lot grading. Based on further refinement of the project design, 53,000 cubic yards (an additional 2.56 acres) would be excavated from the top and the south-facing slope of the knoll adjacent to SR 4. The excavated material would be transported from the knoll across the eBART site to the parking lot, where it would be placed for fill. The finished slope of the additional graded area would be a constant 4:1 from the shoulder of the expanded westbound lane of SR 4 to the top of the knoll. Exhibit 2 illustrates the plan view of the proposed excavation, and Exhibit 3 illustrates the cross sections. Photos of the site are presented in Exhibit 4. The proposed grading site lies adjacent to SR 4 and straddles two properties: the FKP property north of the SR 4 right-of way and a portion of the Caltrans

SR 4 right-of-way. Implementation of the grading program requires an encroachment permit from Caltrans.

The Project Description in the 2011 Addendum discusses the excavation of the knoll and states that "an additional 60,000 cubic yards [of fill] would be excavated from the upper portion of the knoll for the purpose of parking lot grading."[2] At that time, the location of the additional excavation was still in question. The proposed grading addressed in this second Addendum is outside the grading footprint of the Project as evaluated in the Final EIR and 2011 Addendum, and represents use and disruption of additional acreage not identified in those documents. This second Addendum evaluates the grading of the additional 2.56 acres.

This change is being evaluated as an option which may or may not be executed, depending on the circumstances as construction proceeds. BART retains the flexibility to construct the project as originally described in the Final EIR or to incorporate some or all the revised project elements described in the 2011 Addendum and in this second Addendum.

[2] East Contra Costa BART Extension (eBART) Project Final EIR – Addendum, April 2011, page 13.



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SCALE:NTS

**TENTATIVE & PRELIMINARY
FOR DISCUSSION PURPOSES ONLY**

04.05.12
HILLCREST TERMINAL CONSERVATION EXHIBIT 2A R1

Hillcrest Parking Lot and Maintenance Facility Complex

OVERALL SITE PLAN

SAN FRANCISCO BAY AREA
RAPID TRANSIT DISTRICT

PGH WONG ENGINEERING, INC.
CONSULTING ENGINEERS

EAST CONTRA COSTA BART EXTENSION

EXHIBIT 1

NOTES:

1. UPON COMPLETION OF ALL GRADING OPERATIONS WITHIN STATE R/W, CONTRACTOR SHALL HYDROSEED ALL DISTURBED AREAS.
2. CONTRACTOR SHALL INSTALL COIR EROSION CONTROL MATS, WHEN NEEDED TO ESTABLISH VEGETATION ON SLOPE.

3:1 CUT SLOPE

3:1 CUT SLOPE

LIMITS OF PROPOSED BART CONTRACT GRADING FOR MAINTENANCE FACILITY

LIMITS OF PROPOSED BART CONTRACT GRADING WITHIN STATE R/W

4:1 CUT SLOPE

STATE R/W

PHOTO 1

℄ ECL

PHOTO 3

WESTBOUND SR4

℄ ECR

EASTBOUND SR4

PHOTO 4

EX 18"SD

SR4 P.M. 29.9

PHOTO 2

EX INLET

EX 54"SD

EX 18"SD

EX 18"SD

CALIFORNIA DELTA HIGHWAY

40' 0' 40' 80'

GRAPHIC SCALE

Site Plan

04.10.12

PROPOSED-EARTHWORK-EXHIBIT_r5.dwg

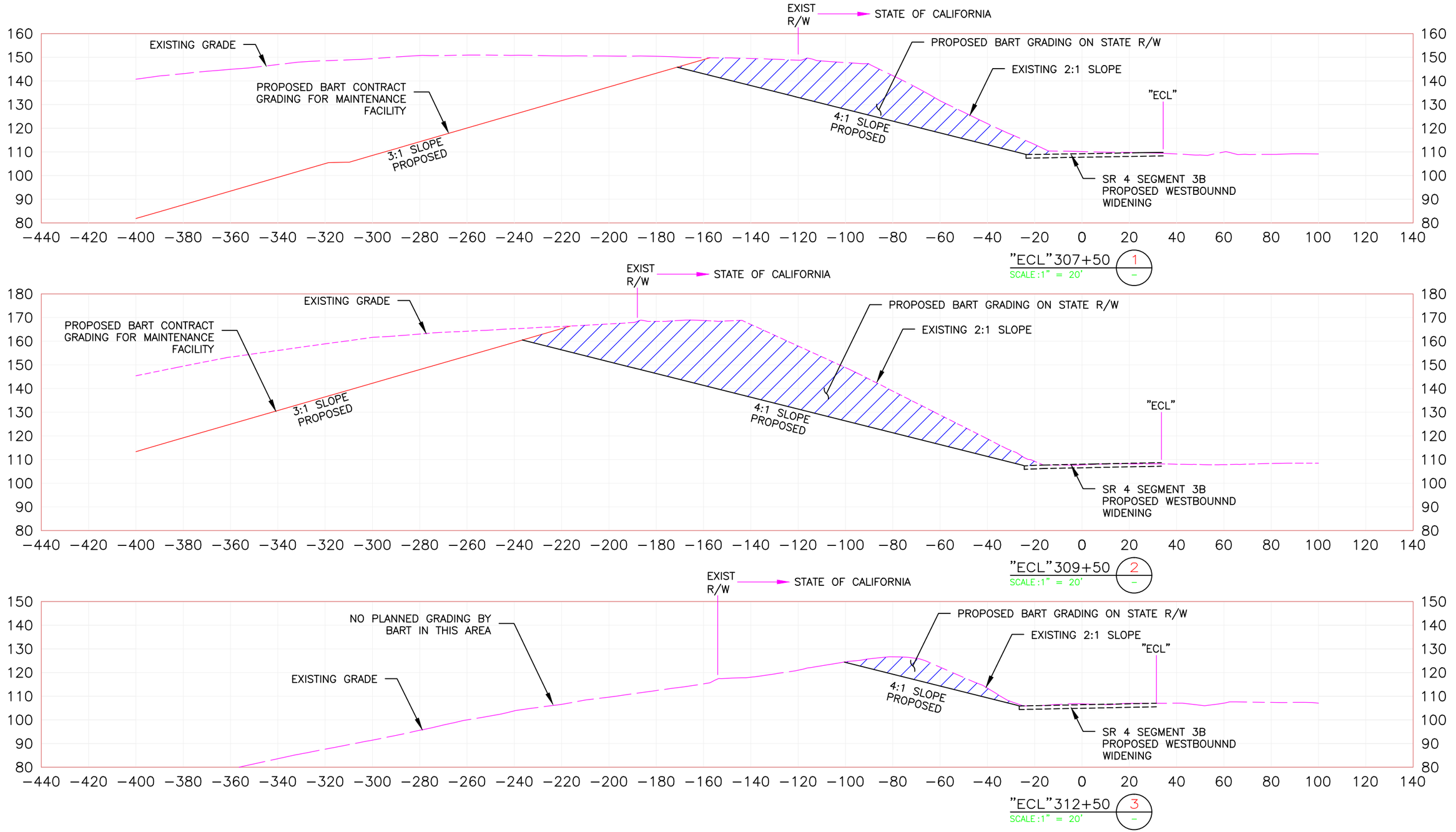
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

PGH WONG ENGINEERING, INC. CONSULTING ENGINEERS

STATE ROUTE 4 - Westbound Grading

East Contra Costa BART Extension

EXHIBIT 2



04.10.12
PROPOSED-EARTHWORK-EXHBIT_r5.dwg

Cross Section

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

PGH WONG ENGINEERING, INC. CONSULTING ENGINEERS

STATE ROUTE 4 - Westbound Grading

East Contra Costa BART Extension

EXHIBIT 3

Photo 1: View of Knoll looking east from shoulder of SR 4

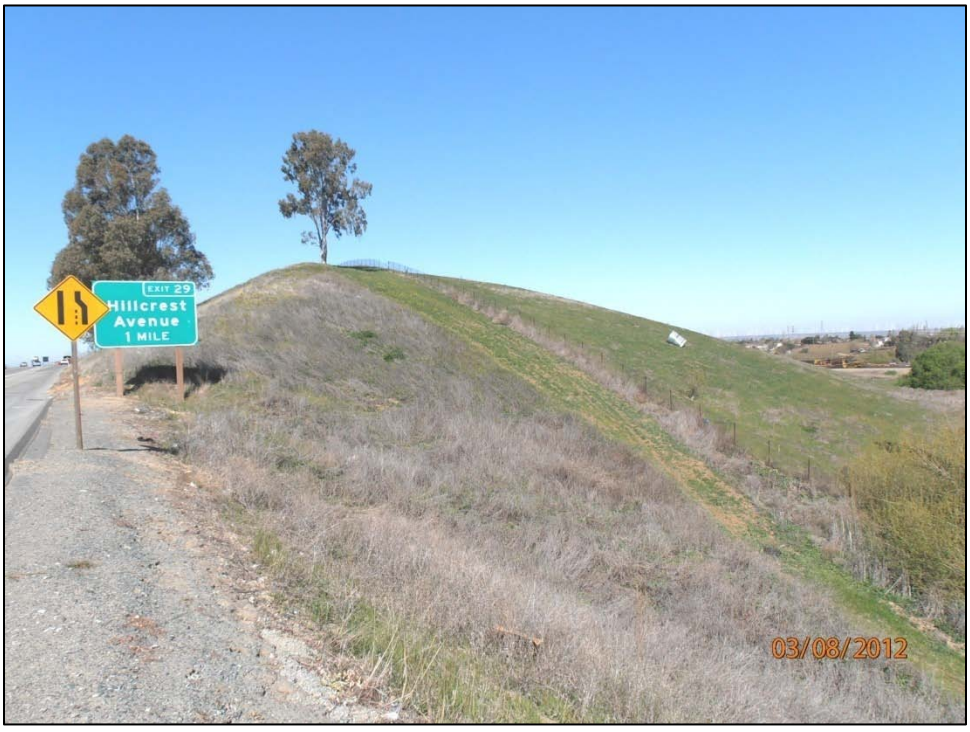


Photo 2: View of knoll looking west from shoulder of SR 4.

EXHIBIT 4

Photo 3: View of knoll from eastbound lane of SR 4.

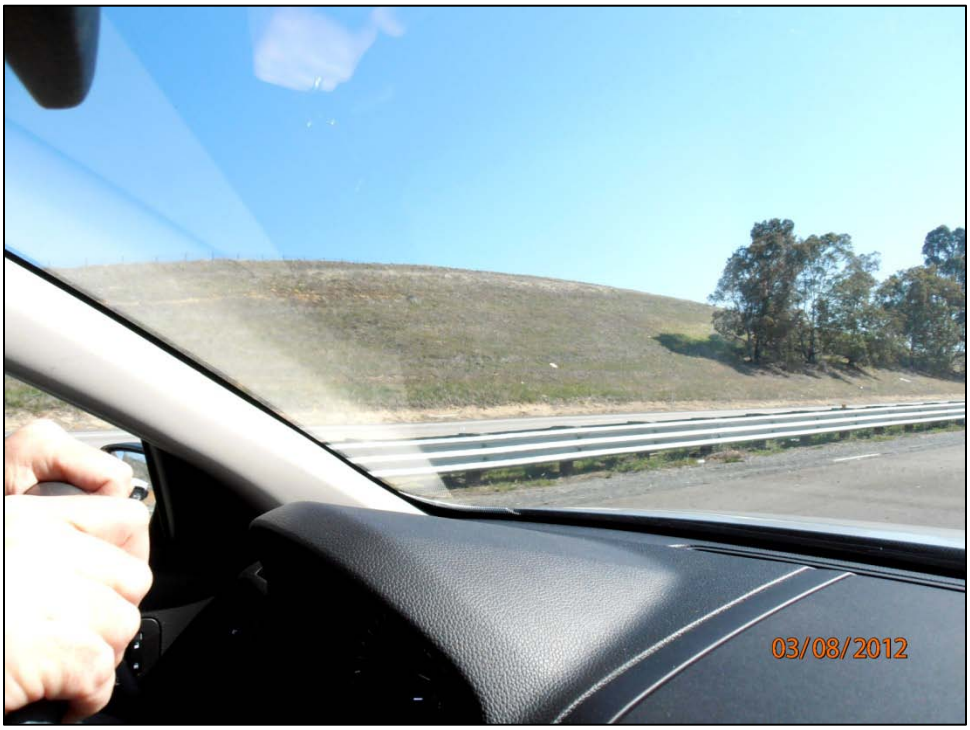


Photo 4: View of knoll from eastbound lane of SR 4.

EXHIBIT 4

3.0 Environmental Analysis

Transportation

The transportation analysis in the Addendum evaluated potential Project ridership and Project impacts to SR 4, local streets, intersections, local transit operations, parking availability, pedestrian and bicycle circulation, and construction impacts. Transportation impacts related to the additional grading would be limited to the additional truck trips to move the excavated material from the knoll to the parking lot and access road, where the fill would be placed. The analysis in the 2011 Addendum included a discussion of the total number of truck trips required to move the 260,000 cubic yards of estimated fill material, which would include the additional 53,000 cubic yards proposed to be excavated from the south side of the knoll. As noted on page 50 of the 2011 Addendum, during construction, approximately 14,950 truckloads would be required to transfer material excavated from the knoll to the parking lot area. Trucks carrying spoils from the knoll would travel west along the north side of SR 4 and into the center of the eBART project area to reach the parking lot area where the material would be dropped, a distance of approximately 3,500 feet. These truck trips would be on-site trips; trucks carrying excavated fill would not travel on public streets. Therefore, construction truck trips related to the excavation of the knoll would not affect traffic circulation near this station. Excavation of the knoll would not result in any additional transportation-related impacts not already discussed in the EIR and 2011 Addendum.

Land Use

The Final EIR evaluated the Project's consistency with plans, policies, and programs, and the eBART Project's compatibility with existing uses. The proposed grading is located on two parcels: one is an undeveloped privately-owned parcel adjacent to SR 4 (APN# 052-052-018) and the other is a portion of the state-owned SR 4 right-of-way. BART will acquire a portion of the privately-owned parcel and obtain a slope easement over a portion of the remainder for the eBART maintenance facility. An encroachment permit is required for the grading on the SR 4 right-of-way, but the state will retain ownership of the parcel. The subject parcels are bordered by the Union Pacific Railroad Mococo line to the north, SR 4 to the south, an unused industrial site to the east, and an abandoned residence to the west. The nearest residential uses are located across SR 4, approximately 400 feet to the south. The nearest residences to the north are approximately 1,500 feet away. There are also some commercial uses, such as a construction equipment storage yard and vehicle salvage and towing yard, along the north side of the Union Pacific Railroad tracks, approximately 650 feet to the north of the knoll. With no residential, commercial, or industrial uses close to the site, the proposed grading would not interfere with plans policies or programs, or be incompatible with surrounding land uses.

Population and Housing

The Population and Housing evaluation in the Final EIR provided an overview of the population, housing, and economic characteristics of the communities in the project corridor. The grading would take place on an undeveloped parcel and a portion of the SR 4 right-of-way. No residences or businesses would be

affected. Parcel APN# 052-052-018 was identified as a land acquisition in the eBART EIR, Table 3.4-5 (p. 3.4-12). Mitigation Measure PH-2.1 in the MMRP, which will mitigate displacement impacts, will apply to this parcel.

Visual Quality

The Visual Quality section of the EIR evaluated the effects of the Project related to its visual compatibility with the surrounding environment, the effect on significant views, and the potential for disruptive light and glare. The visual environment surrounding the Hillcrest Avenue Station has remained largely consistent with the description in the Final EIR. The grading on the knoll would not generate any light and glare and the knoll is not in a scenic corridor. Therefore, any potential visual effect the grading would be related to its visual compatibility on the surrounding environment.

The proposed grading would take place on an existing knoll that rises approximately 90 feet above the surrounding terrain and has an existing 2:1 (horizontal to vertical) cut slope along its entire length adjacent to SR 4. (See photos in Exhibit 4.) The additional grading would excavate 53,000 cubic yards from the top and the south-facing slope of the knoll adjacent to SR 4. The finished grade would have a constant 4:1 slope from the shoulder of the widened westbound lanes of SR 4. The grading would remove the top of the knoll and reduce its height by a maximum of approximately 8 feet. In essence, the existing face of the cut slope along SR 4 would be pushed further back from the roadway, removing the uppermost portion of the knoll in the process. The rounded form of the knoll would remain. (See plan and cross sections in Exhibits 2 and 3.)

The closest visual receptors would be auto drivers and passengers along SR 4. As noted above, the existing cut slope of the knoll would remain but would be altered from the existing 2:1 slope to a 4:1 slope, and the top of the knoll would be lowered. Given that auto speeds along SR 4 are frequently 65 miles per hour or higher and the limited visual exposure at those speeds, the auto drivers and passengers would not perceive the re-graded knoll as a substantial change to the viewshed. The closest residents are located across SR 4, approximately 400 feet to the south. These residences face the street frontage along Bluebell Circle, with the backyards aligned along SR 4. In most cases, these residences have backyard fences that would block most views toward SR 4 and the knoll. For views from those backyards, the visual change of the graded slope would be reduced due to the visual foreshortening on views from the south, as the slope would be moved further from the viewer, but not removed. There are also residences to the north, but these residences are more than 1,500 feet distant, and with the exception of the top of the knoll, the grading would be on the side opposite the viewer, reducing any visual impact. For the reasons stated above, the additional grading would not create any significant visual impacts.

Cultural Resources

The EIR evaluated the operational and construction effects of the Project on archaeological and historic resources in the project corridor and determined that construction activities have the potential to damage previously unknown cultural deposits or human remains during ground disturbance. However, there is no indication that the knoll has a greater archaeological sensitivity than other areas of the eBART site, and it is clear that the south-facing slope on the Caltrans property was formed by major cuts

undertaken when SR 4 was constructed that would have destroyed any subsurface archaeological deposits that could have been present. Mitigation measures in the MMRP to establish procedures to protect subsurface resources will be applicable to the additional graded area, as well as to the overall project. This will ensure that the grading will have a less-than-significant impact on archaeological resources.

Geology, soils and Seismicity

The Final EIR assessed the geologic, soil, and seismic hazards along the project corridor. There are no known faults, landslides, unstable soils, or other geologic issues on the site. BART has conducted soils tests on site, and the soils are considered suitable for fill material. Following excavation, the final finished grade facing SR 4 would be 4:1 (horizontal to vertical) and would be stable without any retaining walls or other structures.

Hydrology and Water Quality

The Final EIR described the existing hydrology and water quality conditions along the project corridor, and examined the Project with respect to potential impacts on surface water quality, groundwater, flooding, hydrology, and stormwater runoff. In addition, the 2011 Addendum considered hydrologic effects of excavation on the knoll. Since these analyses were conducted for the Final EIR and 2011 Addendum, there have not been any substantial hydrologic changes in the project area. The additional grading would reshape the slope adjacent to SR 4, but would not result in the construction of any permanent structures or impervious surface. Following excavation, the slope would be graded to 4:1 replacing the existing 2:1 slope and reseeded, so that the future slope would be similar to the existing slope.

Currently, runoff on the south-facing cut slope flows down to a drainage way along the shoulder of SR 4. The western half of the slope drains to an inlet near the center of the slope's drainageway that eventually drains to an outlet west of the knoll. The eastern half of the slope drains to an inlet at the eastern edge of the drainageway that eventually drains to a small wetland east of the knoll. Because the orientation of the slope will remain the same is it is today, the proportion of water draining in each direction would remain the same. In addition, the wetland east of the knoll receives water from an area larger than the adjacent knolls. It also receives water from an approximately 20-acre drainage area south of the SR 4 via a pipe under the roadway. Therefore, the local drainage pattern north of the freeway would be only a small portion of the wetland's overall water supply, and any changes to that supply would not be large enough to affect the overall hydrology of the wetland.

Biological Resources

The EIR evaluated the biological resources along the project corridor and the potential for the Project to disturb sensitive biological species and habitats. The project site is undeveloped pasture land and consists primarily of disturbed non-native annual grassland and ruderal vegetation. (See the site photos in Exhibit 4.) The south-facing slope of the site is a steep hillside cut face adjacent to SR 4 that has likely received erosion control treatments during the construction of SR 4. There are six trees at the bottom

of the cut slope adjacent to SR 4 and one additional tree partially up the slope. All seven trees would be removed as part of the excavation.

Surveys for biological resources were conducted as part of the eBART EIR evaluation, and a series of mitigation measures were adopted in the MMRP to mitigate for eBART project impacts and habitat loss. These surveys have been updated as part of BART's ongoing on-site monitoring. Additional biological surveys of the additional area to be graded were conducted in March, 2012.[3] This survey reported no indication of sensitive species, rare plants, or nesting birds on the site. (The biological assessment is attached as Appendix A.)

Mitigation for habitat loss due to the eBART project was implemented through the East Contra Costa County Conservancy Habitat Conservation Plan and Natural Community Conservation Plan (Conservancy), which issued a Certificate of Inclusion for the Hillcrest parking lot and maintenance facility on January 26, 2012. This mitigation measure applies to the additional grading. BART will amend its agreement with the Conservancy to provide for mitigation of the additional 2.56 acres of proposed grading.

Noise and Vibration

The FEIR and 2011 Addendum evaluated the noise and vibration associated with eBART's proposed Diesel Multiple Unit transit vehicles, increased traffic noise, and the Project's construction. The evaluation determined that although construction impacts would be temporary, construction activities (both project specific and cumulative) could have potentially significant impacts on sensitive receptors along the project corridor. Mitigation measures adopted for the overall project would apply to the additional grading. However, construction noise and vibration impacts could be significant and unavoidable, even with mitigation measures in place. These conclusions also would apply to the additional grading.

Trucks, excavators, and other heavy equipment would be used to excavate and move the soil from the knoll to the parking lot area where it would be used as fill. Construction methods and equipment would be similar to those assumed for the construction of other elements of the eBART project. Elements of the eBART Project north of SR 4, such as the parking lot and station entry house, will lie approximately 335 feet from the nearest residential properties, which are south of the freeway. The station platform itself will be in the median of SR 4, within approximately 175 feet of residential properties to the south. The closest residents to the additional grading on the knoll are located across SR 4, approximately 400 feet to the south. There are also residences to the north, but those residences are more than 1,500 feet distant, and the bulk of the knoll would serve to shield those residences from most of the noise. Therefore, the grading on the knoll would be no closer to sensitive receptors than other elements of the eBART construction, and construction impacts would be no greater than those analyzed in the FEIR and 2011 Addendum.

[3] Cardno-Entrix, General Habitat Assessment, Rare Plant, and Nesting Bird Survey for Bay Area Rapid Transit's eBART Phase 2 Hillcrest Station Parking lot and Maintenance Facility Project Expansion Area, March 30, 2012.

Air Quality

The eBART EIR and Addendum conducted a full analysis of air quality impacts related to the eBART project, including regional greenhouse gas, ozone precursors, construction exhaust pollutants, fugitive dust, and diesel particulate matter. Where potentially significant impacts were identified, mitigation measures were required. The proposed additional grading would excavate 53,000 cubic yards of fill and transport it to the eBART station parking lot. The project description of the 2011 Addendum (page 13) described that 60,000 cubic yards of grading would be excavated from the upper portion of the knoll. The additional 53,000 cubic yards of excavation is well within the 60,000 cubic feet of additional grading identified and analyzed in the earlier air quality analysis of the project. All relevant air quality mitigation measures would be implemented for the additional grading as they will be for the overall eBART project.

Public Health and Safety

The eBART EIR and Addendum identified hazards that may exist along the project corridor. Potential hazards include hazardous materials sites, hazardous materials used in project construction and operation, and overall system safety. Consistent with the mitigation measures in the MMRP, Phase I and Phase II hazardous material reports have been produced for properties to be acquired by BART, including the privately-owned property where a portion of the grading will take place (APN# 052-052-018). No hazardous materials were identified on that property.

A portion of the grading also will take place on the state owned-property within the SR 4 right-of-way, and the state will retain ownership of the parcel after the excavation takes place. BART has not conducted any hazardous materials investigations of the Caltrans parcel, but it is likely that aerially deposited lead or other materials could be present in the site soils and could be released during ground disturbance. The MMRP contains mitigation measures HS-8.1 and HS-8.2 that require BART to conduct additional file review and a Phase I ESA prior to project construction and additional investigation, including field sampling and laboratory analysis, if warranted, of areas where construction could take place. These measures will be implemented and require additional study of the Caltrans parcel, as they have for other properties to be acquired by BART.

Community Services

The EIR and Addendum described community services, such as police, fire, and emergency medical services along the eBART corridor. The additional grading would not create any new structures, roadways, or other infrastructure, and would have no effect on the need for, or provision of, community services. Truck traffic and other grading equipment would remain onsite and not travel on public roadways, which would reduce the potential to create traffic disruptions and road detours that could impede emergency response times by police and fire departments. Therefore, the additional grading would not affect community services.

Utilities

The Final EIR and Addendum described the location of existing utility lines and evaluated how construction and operation of the Project could interrupt or damage the proper functioning of these

lines. In addition, the Final EIR considered whether the existing water and wastewater treatment systems serving the project corridor could accommodate the increased load created by the Project. BART has identified the location of the utility lines crossing the project site, and there are none in the vicinity of the additional grading. Excavation of the soil and its transport to the eBART station parking lot would not affect the water and wastewater needs of the project.

Energy

The EIR considered the energy required for both the construction and operation of the Project, as well as the energy savings associated with the Project's reduction in vehicle miles traveled. The energy used by the equipment to excavate and move the additional 53,000 cubic yards of material was included in the analysis of the overall eBART project in the 2008 FEIR. The MMRP provides mitigation measures to develop and implement a construction energy conservation plan that would reduce impacts to a less than significant level.

APPENDIX A

General Habitat Assessment , Rare Plant , and Nesting Bird Survey for Bay Area Rapid Transit's eBART Phase 2 Hillcrest Station Parking Lot and Maintenance Facility Project Expansion Area
Cardno-ENTRIX

March 30, 2012

Memorandum

Cardno ENTRIX

701 University Avenue
Suite 200
Sacramento, CA 95825
USA

Phone 916 923 1097
Toll-free 800 368 7511
Fax 916 923 6251
www.cardno.com

www.cardnoentrix.com

Date: March 30, 2012

To: Don Dean
Wayne Lind
BART
San Francisco Bay Area Rapid Transit
300 Lakeside Drive
Oakland, CA 94612

From: Sam Bacchini

RE: **General Habitat Assessment, Rare Plant, and Nesting Bird Survey for Bay Area Rapid Transit's eBART Phase 2 Hillcrest Station Parking Lot and Maintenance Facility Project Expansion Area**

Introduction

This memorandum report describes the survey methodology and results of a General Habitat Assessment, Rare Plant, and Nesting Bird Survey for the expansion area for the Hillcrest Avenue Station parking facility and maintenance yard project (Project Area) which is a part of Bay Area Rapid Transit's (BART) eBART Phase 2 project. The expansion area consists of the hill top and southern face of the hill at the eastern end of the Project Area. The expansion area footprint is detailed in the attached figure. The purpose of this report is to document what biological resources are present in the expansion area to support the HCP permit amendment for the expanded project area.

Methods

A general habitat assessment, rare plant survey, and nesting bird survey was conducted by Cardno ENTRIX biologists Sam Bacchini, and Carlos Alvarado on March 28, 2012. Surveys consisted of walking transects to cover the entire expansion area, and identify all habitat types occurring within the project boundaries. Trees on the site were closely examined for evidence of nesting raptors or other migratory birds. Plant species observed were identified to a level that allowed a determination that they were not one of the special-status plant species targeted during the survey.

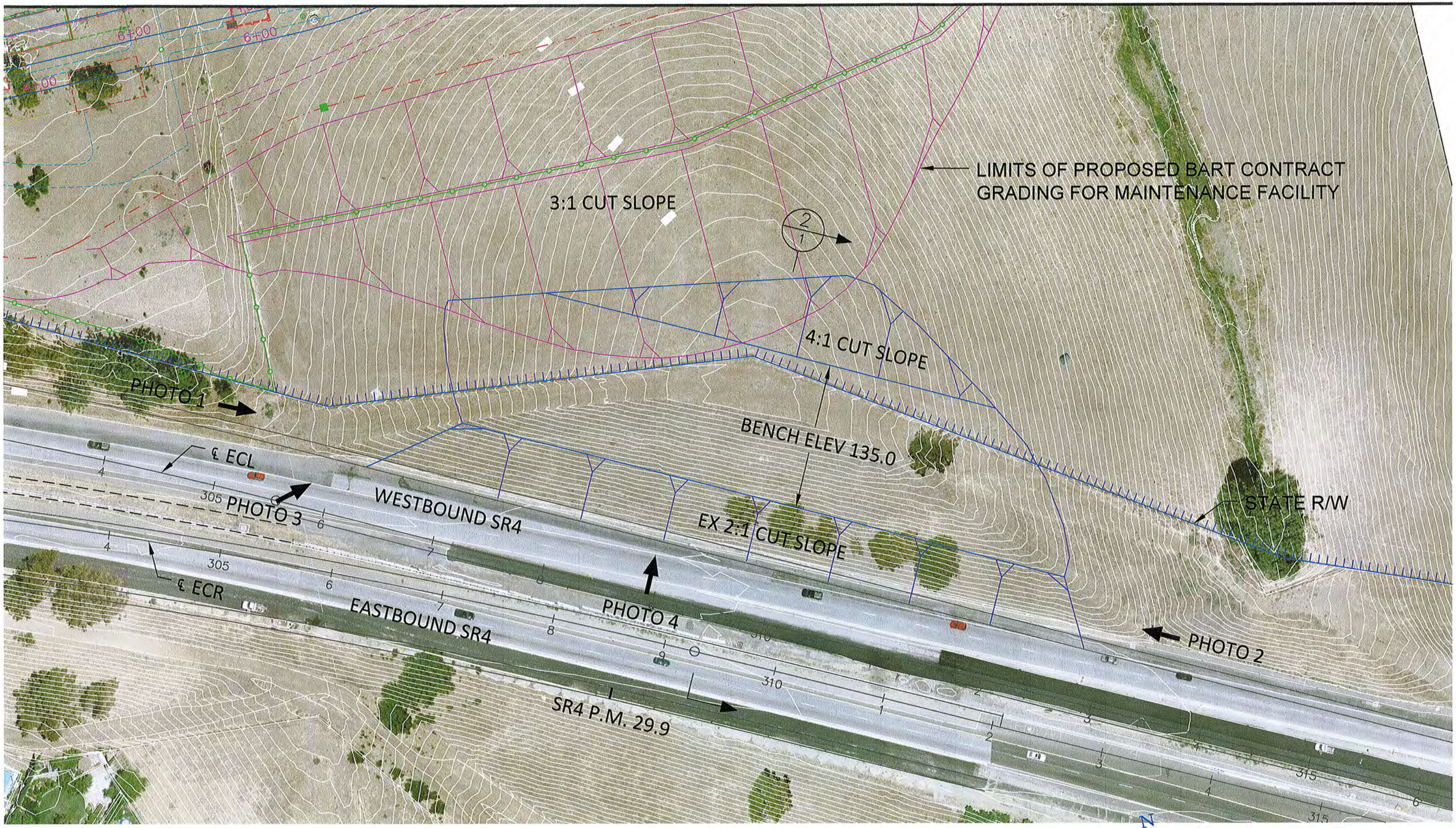
The list of special-status plant species targeted during the survey was derived from *Table 3A Species-Specific Planning Survey Requirements Triggered by Land Cover Types and Habitat Elements on the project site* in the eBART Phase II Extension Project Planning Survey Report, and included the following.

- Alkali milkvetch (*Astragalus tener* ssp. *tener*)
- Big tarplant (*Blepharizonia plumosa*)
- Brewer's dwarf flax (*Hesperolinon breweri*)
- Contra Costa goldfields (*Lasthenia conjugens*)
- Diamond-petaled poppy (*Eschscholzia rhombipetala*)
- Large-flowered fiddleneck (*Amsinckia grandiflora*)
- Mount Diablo buckwheat (*Eriogonum truncatum*)
- Mount Diablo fairy-lantern (*Calochortus pulchellus*)
- Round-leaved filaree (*California macrophylla*)[1]
- Showy madia (*Madia radiata*)

Results

The vegetation community in the expansion area consists primarily of disturbed non-native annual grassland and ruderal vegetation. The portion along the Caltrans ROW perimeter fence has been disked for a firebreak, and most of the southern portion of the expansion area consists of a steep hillside cut face adjacent to/facing Hwy 4 that likely received erosion control treatments during the construction of Hwy 4. Plant species observed during the survey include wild oats (*Avena fatua*), ripgut brome (*Bromus diandrus*), soft chess (*Bromus hordeaceus*), Italian ryegrass (*Lolium multiflorum*), foxtail barley (*Hordeum murinum* ssp. *leporinum*), wild mustard (*Brassica* sp.), clover (*Trifolium* sp.), prickly ox-tongue (*Picris echioides*), lupine (*Lupinus bicolor*), California manroot (*Marah fabacea*), red stemmed filaree (*Erodium cicutarium*), wild radish (*Raphanus sativa*), common fiddleneck (*Amsinckia menziesii*), yellow star thistle (*Centaurea solstitialis*), milk thistle (*Silybum marianum*), curly dock (*Rumex crispus*), and red maids (*Calandrinia ciliata*). Tree cover is very sparse, consisting only of a few young blue gum (*Eucalyptus globulus*). Wildlife species observed during the survey included red-tailed hawk (*Buteo jamaicensis*), American crow (*Corvus brachyrhynchos*), Brewer's blackbird (*Euphagus cyanocephalus*), American kestrel (*Falco sparverius*), mourning dove (*Zenaida macroura*), California ground squirrel (*Spermophilus beecheyi*), and black-tailed hare (*Lepus californicus*).

The expansion area overall is highly disturbed, and appears to be subject to regular maintenance activities by Caltrans. No nests were observed in any of the trees in the expansion area, therefore no nesting birds are present there. No ground squirrel burrows were observed in the expansion area, so the expansion area is not occupied by burrowing owl. No special-status plant species were observed during the survey. As stated in the methodology section above, all plants observed were identified to a level that allowed them to be eliminated as a possible special-status species. All species were found to be non-native annual grasses or forbs, or were common and widespread native species. Based on the lack of special-status species or nesting bird observations, the inclusion of the expansion area into the Hillcrest Station Parking Facility and Maintenance Yard project area will not result in the loss of any special-status species or nesting birds.



03.14.12
PROPOSED-EARTHWORK-EXHBIT.dwg

Slope Grading Option B

Site Plan

BART
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

PGH WONG ENGINEERING, INC.
CONSULTING ENGINEERS

STATE ROUTE 4 - Westbound Grading

East Contra Costa BART Extension

1

Sheet 1 of 2