

**EAST CONTRA COSTA COUNTY  
HABITAT CONSERVANCY**

**DATE:** December 9, 2013  
**TO:** Governing Board  
**FROM:** Conservancy Staff  
**SUBJECT:** Agreement Amendment 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:**

- a. **AUTHORIZE** staff to file a Notice of Determination for this Board action with the County Clerk.
- b. **AUTHORIZE** Conservancy staff to execute a Third Amendment to the Participating Special Entity Agreement with San Francisco Bay Area Rapid Transit District, provided the Wildlife Agencies concur with the Agreement.

**DISCUSSION**

**ITEM (a). California Environmental Quality Act (CEQA):** The Board’s decision to authorize the Executive Director to execute a Third Amendment to the Participating Special Entity Agreement and to extend take authorization under the Third Amendment to San Francisco Bay Area Rapid Transit District for the East Contra Costa BART Extension Project, as described in Exhibit 1 including Addendum 1.0 and 2.0, 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 (“FEIR”) (*state clearinghouse number 2005072100*), dated April 23, 2009 and approved a First and Second Addenda on April 28, 2011 and on April 18, 2012, respectively, and a Third Addenda on November 21, 2013. The Third Addenda to the FEIR evaluated and addressed the modifications to the Project to include a 7.97 acre staging and storage area for rails, ties, ballast, heavy equipment and other material during construction and as a long-term storage for eBART system operations, as reflected in Addendum 2.0 to the Planning Survey Report.

CONTINUED ON ATTACHMENT: Yes  
 ACTION OF BOARD ON: December 9, 2013 APPROVED AS RECOMMENDED: \_\_\_\_\_  
 OTHER \_\_\_\_\_

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**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

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The Conservancy is a CEQA responsible agency for purposes of the Project and as such will rely on the FEIR, the First and Second Addenda, as well as the Third Addenda which is the document the Conservancy Board will be acting on as part of the Third Amendment to the PSE Agreement, as prepared by BART for purposes of fulfilling its responsibilities under CEQA. On January 11, 2012, in approving the PSE Agreement, the Conservancy concurred with the Findings adopted by BART for the FEIR dated April 23, 2009 and found that the impacts of the eBART Phase II Project were fully disclosed and analyzed in the FEIR. Staff has reviewed the Third Addenda to the FEIR for purposes of fulfilling its responsibilities under CEQA associated with the Third Amendment to the PSE Agreement and concurs with the Findings adopted by BART on November 21, 2013 as further outlined in Attachment B to the Staff Report (BART Executive Decision Document and Resolution #5237).

1. Specifically, the Conservancy finds that, on the basis of substantial evidence contained in the FEIR and the Third Addendum and in light of the whole record, that:
  - a) there are no substantial changes proposed in the Third Addendum that will require major revisions to the FEIR due to the involvement of new or substantially more severe significant environmental effects; and
  - b) there are no substantial changes with respect to the circumstances under which the Project changes considered in the Third Addendum will be undertaken which will require major revisions of the FEIR due to the involvement of new or substantially more severe significant environmental effects; and
  - c) there is no new information of substantial importance, which was not known at the time the FEIR was certified, showing that:
    - i. the changes considered in the Third Addendum will have new or substantially more severe significant effects,
    - ii. mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce significant effects of the changes considered in the Third Addendum, or
    - iii. mitigation measures or alternatives considerably different from those analyzed in the FEIR would substantially reduce significant effects of the changes considered in the Third Addendum, and
2. That BART has adopted the changes considered in the Third Addendum on November 21, 2013, and
3. The BART has authorized staff to implement the changes considered in the Third Addendum.

**ITEM (b).** 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 East Contra Costa BART Extension Project (“eBART Phase II Project” or “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.

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 to provide fill for the eBART station parking lot. The applicant requested an amendment to the terms of the original PSE agreement between the Conservancy and BART dated January 26, 2012 in order to cover the additional 2.56 acres of impact. The First Amendment only reflected the increase in the cap on administrative fees from \$35,000 to \$40,000 while the Second Amendment reflected the changes in the project description to include the additional 2.56 acres of soil borrow and the associated increase in fees.

The total fees (development fees plus contribution to recovery) increased from \$934,310.25 to \$995,276.93. The applicant prepared Addendum 1.0 reflecting the modifications to the original Planning Survey Report Application as a result of the Second Amendment which was incorporated within the PSE Agreement and Exhibit 1. The First and Second Amendment were fully executed and a new Certificate of Inclusion was issued on September 10, 2012.

In the summer of 2013, after construction began on the Project, BART initiated consultation with the Conservancy to request an additional modification to the Project description. BART is seeking to include the use of an additional 7.97 acres for a necessary staging and storage area. The 7.97 acre undeveloped site is on a BART owned parcel, formerly owned by the Parachini family, located between the Antioch Station parking lot and the Maintenance Facility. BART has indicated that the use of the site would be similar during both construction and eBART operations with the initial use of the site as a construction staging area and following construction would be a long-term storage area for eBART system operations. The area would be used to store rail, ties, ballast, and heavy equipment. BART is not proposing to do any grading at the site and the only improvements would be placement of compacted aggregate to a depth of 12 inches to provide a circular driveway that would make the staging area useable in wet weather and a security fence around the perimeter of the staging area.

The San Francisco Bay Area Rapid Transit District is requesting an amendment (a Third Amendment) to the PSE Agreement in order to obtain incidental take coverage for permanent impacts to the additional 7.97 acre site associated with the Project. In order to receive permit coverage under the HCP/NCCP by way of the Third Amendment, the Conservancy and BART must execute an Amendment to the PSE Agreement obligating compliance with the applicable terms and conditions of the Implementing Agreement, the HCP/NCCP, and the state and federal permits. The Conservancy staff and BART have jointly prepared the proposed Third Amendment to the PSE Agreement for the Project (attached).

Attached and to be incorporated as Exhibit 1 to the PSE Agreement is Addendum 2.0 to the Planning Survey Report, prepared by BART in consultation with Conservancy staff. Addendum 2.0 documents the results of the planning-level surveys conducted at the new 7.97 acre Project site where ground disturbing impacts will occur and describes the specific pre-construction surveys, avoidance/minimization/construction monitoring, and mitigation measures that are required in order for the new 7.97 acre site to be covered through the HCP/NCCP. The PSR contains the project site plans and detailed maps showing the project impacts, land cover types, and species habitat, and the Fee Calculator Worksheets. Several additional figures and an appendix are included in the Addendum 2.0.

**Key provisions of the Amendment:**

- Project impacts by land cover type are reflected in the table below:

Land Cover Type	Impact Type (acres)
	Permanent
Annual Grassland	7.97
<b>Total</b>	<b>7.97</b>

- The Amendment provides that BART will reimburse the Conservancy for staff costs associated with processing the request for take coverage, up to a maximum reimbursement of \$5,000 (increasing the cap on administrative fees from \$40,000 to \$45,000). (See table below)
- To date the Participating Special Entity has submitted payment for \$995,276.93 in accordance with the PSE Agreement and the First and Second Amendment. The additional fees owed by BART for the Third Amendment totals \$180,687.87 which amount includes \$120,458.58 in development fees and a contribution to recovery of \$60,229.29. (See table below)
- Staff proposes a Contribution to Recovery in the amount of \$60,229.29. As set forth in the HCP/NCCP, the Conservancy may charge a Participating Special Entity a Contribution to Recovery to help the Conservancy cover certain costs associated with the HCP/NCCP that are not included in the mitigation fees (for example, the costs of preserve management beyond the permit term, the costs born by the Conservancy of exceeding mitigation requirements and contributing to the recovery of covered species (as is required because the plan is an NCCP and by state law NCCP's must contribute to recovery, etc.). Given the overall scale of the project proposed in the Third Amendment including the proposed ground disturbing impacts associated with the development, construction, and operation of the 7.97 acre site as part of the Hillcrest Avenue Station and associated maintenance facilities, and the development fee applicable to the Project which is approximately \$15,000 per acre, staff proposed a \$60,229.29 Contribution to Recovery. This amount is half of the amount of the mitigation fees required for the development impacts and staff believes this is consistent with the amount charged for the original Project and First and Second Amendment's (each of which set the Contribution to Recovery at 50% of the development fees) as well as previous Participating Special Entity projects. (See table below)

- The table below summarizes the HCP/NCCP fee summary for the Project, including Addendum 1.0, and the proposed Addendum 2.0:

Project Component	Development Fee Permanent Disruption	Development Fee Temporarily Disturbed	Contribution to Recovery	Other <sup>a</sup>	Credit <sup>b</sup>	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
Addendum 2.0	120,458.58		60,229.29			180,687.87
<b>Total</b>	<b>\$767,405.72</b>	<b>\$2,367.00</b>	<b>\$383,703.85</b>	<b>\$30,000.00</b>	<b>&lt;\$7,511.77&gt;</b>	<b>\$1,175,964.80</b>

Source: BART, October 2013

Notes:

<sup>a</sup> Mitigation for Swainson's hawk tree replacement.

<sup>b</sup> Credit for eBART Phase I project.

- The Agreement provides that the Fees and Administrative Costs must be paid before work commences on the portion of the Project associated with the Third Amendment. Construction of the Hillcrest Avenue Station and Diesel Multiple Unit ("DMU") Maintenance Facility including the associated parking facilities and new and re-aligned roads is underway, and BART anticipates using the new 7.97-acre site in January 2014, assuming the Certificate of Inclusion for the Third Amendment has been issued.

**Next steps:** If the Conservancy Governing Board authorizes staff to execute an Amendment to the PSE Agreement, key next steps in granting take coverage would be as follows:

- San Francisco Bay Area Rapid Transit District signs the Third Amendment.
- Staff will ask the Wildlife agencies to review the Third Amendment and Addendum 2.0 and to concur that the Third Amendment and Addendum 2.0 includes all applicable requirements of the HCP/NCCP with regard to the revised Project and imposes a duty on San Francisco Bay Area Rapid Transit District, to implement them. If, and only if, the Wildlife Agencies concur, the Executive Director of the Conservancy will sign the Third Amendment. Note: Participating Special Entity Agreements, unlike the granting of take authorization by a participating City or County, require Wildlife Agency concurrence.
- San Francisco Bay Area Rapid Transit District pays all required mitigation, contribution to recovery, and administrative costs (to-date, as set forth in an invoice to be provided to BART by Conservancy staff), as outlined in the Third Amendment.
- The Conservancy issues San Francisco Bay Area Rapid Transit District a Certificate of Inclusion. Take authorization would then be in effect, subject to the terms of the Agreement.
- San Francisco Bay Area Rapid Transit District conducts pre-construction surveys to determine which species-specific avoidance and minimization measures are required during construction.
- San Francisco Bay Area Rapid Transit District develops and submits a construction monitoring plan to the Conservancy in accordance to Section 6.3.3 of the HCP/NCCP.

- San Francisco Bay Area Rapid Transit District implements the Project subject to the terms of the Amendment.

**Attachments:**

- **Attachment A:**
  - **A1: BART Executive Decision Document and Resolution No. 5237**
  - **A2: November 21, 2013 Third Addenda to the EIR**
- **Attachment B:**
  - **PSE Agreement Third Amendment, including:**
    - Main body of amendment
    - Addendum 2.0
      - Main body of Addendum
      - Updated Project Vicinity Maps, Impact and Land Cover Maps and Tables
      - Updated Fee Calculators



**EXECUTIVE DECISION DOCUMENT**

GENERAL MANAGER APPROVAL: <i>[Signature]</i>		GENERAL MANAGER ACTION REQ'D: Approve and Forward to the Board		
DATE: c 11/15/13		BOARD INITIATED ITEM: No		
Originator/Prepared by: Olga Perez Dept. PD <i>[Signature]</i> 11/13/13	General Counsel <i>[Signature]</i> 11-13-13	Controller/Treasurer <i>[Signature]</i>	District Secretary	BART <i>[Signature]</i> 11/15/13
Signature/Date: <i>[Signature]</i> 11/13/13	[ ]	[ ]	[ ]	[ ]

**PROJECT CHANGES AND THIRD ADDENDUM TO THE EAST CONTRA COSTA BART EXTENSION (eBART PROJECT) FINAL ENVIRONMENTAL IMPACT REPORT**

**NARRATIVE:**

**PURPOSE**

To consider an Addendum to the Final Environmental Impact Report (Final EIR) pursuant to the California Environmental Quality Act (CEQA) for the East Contra Costa BART Extension (eBART Project), evaluating the potential environmental impacts of changes to the eBART Project (Revised Project); find that a subsequent or supplemental environmental impact report is not necessary, based upon the Addendum; and adopt the Revised Project.

**DISCUSSION**

The District is extending transit services into east Contra Costa County from its existing Pittsburg/Bay Point BART Station. 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 new Antioch Station just east of Hillcrest Avenue.

Between the Antioch Station parking lot and the eBART Maintenance Facility, lies a BART-owned parcel, formerly owned by the Parachini family (the "Parcel"). A 7.97-acre portion of the Parcel is undeveloped and will remain in BART ownership for the foreseeable future. BART is proposing to use this 7.97-acre area as a staging and storage area for rails, ties, ballast, heavy equipment and other material during construction. The site would provide a staging area adjacent to the eBART maintenance-of-way tunnel under SR 4 and would also provide direct access to rail construction in the median of SR 4. Upon completion of construction, the site would provide long-term storage for eBART system operations. The use of the site as a staging and storage area was not evaluated in the Final EIR for the eBART Project and the site was not included within the original eBART footprint. Although BART did not plan on purchasing the 7.97-acre portion of the Parcel for the eBART Project, as part of the final negotiations in the eminent domain proceeding, BART agreed to purchase the entire Parcel, including this uneconomic remnant.

The potential environmental effects of the eBART Project were presented in a Final EIR 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 BART Board of Directors certified the Final EIR for the project, adopted a Mitigation Monitoring and Reporting

Third Addendum to eBART Project FEIR

Plan (MMRP),<sup>1</sup> and adopted the eBART Project (Project).

There have been two Addenda to the Final EIR since its certification in 2009. The first Addendum analyzed a series of modifications to the project. The Board considered those modifications and the Addendum on April 28, 2011 and adopted the Project and MMRP, as revised. A second Addendum analyzed grading outside the original project footprint. BART's Assistant General Manager reviewed and considered the second Addendum and approved the project changes. The General Manager notified the Board of the project changes and the second Addendum in a memorandum on May 8, 2012.

This current Addendum, the third, evaluates the proposed staging and storage area for all categories of impact analyzed in the Final EIR (transportation, land use, visual quality, etc.). The Addendum has not identified any substantial changes in the existing environment, nor has it identified any new or more severe impacts that would result from the revised project that were not already identified in the Final EIR. Therefore, the Revised Project does not meet the conditions that would require a subsequent or supplemental EIR. All mitigation measures included in the adopted MMRP would also apply to the Revised Project.

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<sup>1</sup> Mitigation Monitoring and Reporting Plan adopted April 23, 2009 and revised April 28, 2011

### **FISCAL IMPACT**

There is no increase to the current estimated capital cost of \$502 million.

### **ALTERNATIVES**

The alternative is not to adopt the Revised Project and Addendum to the Final EIR. Failure to adopt the Revised Project would reduce the construction efficiency for the eBART Project and reduce long-term options for eBART system storage in the immediate project area.

### **RECOMMENDATION**

Adoption of the attached Resolution.

### **MOTION**

Having reviewed and considered the information contained in the Addendum, the BART Board of Directors hereby:

Adopts the attached Resolution In the matter of adopting modifications to the East Contra Costa BART Extension (eBART Project).

**BEFORE THE BOARD OF DIRECTORS OF THE  
SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT**

**In the Matter of Adopting  
Modifications to the  
East Contra Costa BART  
Extension (eBART Project)**

Resolution No. 5237

**WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the BART Board of Directors on April 23, 2009, certified the Final Environmental Impact Report (FEIR) and adopted the eBART Project (Adopted Project). The Adopted Project consists of an approximately 10-mile extension of the BART system starting from the existing Pittsburg/Bay Point BART Station and extending in the median of State Route 4 (SR 4) to a new station in Antioch, just east of Hillcrest Avenue; and**

**WHEREAS, The Antioch Station will be a station platform in the median of SR 4, together with a station entry house, station parking lot, access road and Maintenance Facility adjacent to the north side of SR 4; and**

**WHEREAS, staff has come before the Board on previous occasions to seek approval of various eBART Project changes; and**

**WHEREAS, the design and construction plans have evolved since the Adopted Project and Revised Project were approved in 2009 and 2011, respectively; and**

**WHEREAS, a change to the eBART Project is now being contemplated (the Third Addendum), to wit: That a 7.97-acre portion of an undeveloped, BART-owned, parcel located between the Antioch Station parking lot and the eBART Maintenance Facility be used as a staging and storage area during construction and as a permanent, long-term storage area to support eBART system operations following construction; and**

**WHEREAS, Section 15164 of the CEQA Guidelines allows a lead agency to prepare an addendum to a previously certified EIR, rather than a subsequent EIR (SEIR), if some changes or additions to a project are necessary, as long as none of the conditions described in Section 15162 requiring the preparation of an SEIR have occurred. Section 15162 states that, when an EIR has been certified, no SEIR shall 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 or substantially more severe significant effects, new mitigation measures or alternatives, or the feasibility of mitigation measures or alternatives previously considered; and**

**WHEREAS, staff has revisited the analysis conducted in the FEIR and evaluated the potential effects of the changes described in the Third Addendum, surrounding circumstances and new information; and**

**WHEREAS, based upon the evaluation, none of the conditions described in CEQA Guidelines Section 15162 requiring the preparation of a SEIR have occurred; and therefore an addendum is appropriate; and**

**WHEREAS, CEQA Guidelines Section 15164(d) provides that the lead agency's decision-making body shall consider an addendum, together with the FEIR, prior to making a decision on changes to the project.**

**THEREFORE, BE IT RESOLVED that the BART Board of Directors, having reviewed and considered the information contained in the FEIR and the Third Addendum for the East Contra Costa BART Extension (eBART Project):**

- 1) **Finds that, on the basis of substantial evidence contained in the FEIR and the Third Addendum and in light of the whole record, that:**
  - (a) there are no substantial changes proposed in the Third Addendum that will require major revisions to the FEIR due to the involvement of new or substantially more severe significant environmental effects; and**
  - (b) there are no substantial changes with respect to the circumstances under which the Project changes considered in the Third Addendum will be undertaken which will require major revisions of the FEIR due to the involvement of new or substantially more severe significant environmental effects; and**
  - (c) there is no new information of substantial importance, which was not known at the time the FEIR was certified, showing that:**
    - (i) the changes considered in the Third Addendum will have new or substantially more severe significant effects,**
    - (ii) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce significant effects of the changes considered in the Third Addendum or**
    - (iii) mitigation measures or alternatives considerably different from those analyzed in the FEIR would substantially reduce significant effects of the changes considered in the Third Addendum and**
- 2) **Adopts the changes considered in the Third Addendum, and**
- 3) **Authorizes staff to implement the changes considered in the Third Addendum.**



**East Contra Costa BART Extension  
(eBART) Project Final EIR**

**Addendum 3**

Staging and Storage Area-Parachini Property

**October 18, 2013**

*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 3

### Staging and Storage Area-Parachini Property

## 1.0 Summary

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### Background

The San Francisco Bay Area Rapid Transit District (BART) is extending transit services into east Contra Costa County from its existing Pittsburg/Bay Point BART Station. 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 BART Board of Directors certified the FEIR for the project, adopted a Mitigation Monitoring and Reporting Plan (MMRP),<sup>1</sup> and adopted the eBART Project (Project).

There have been two Addenda to the Final EIR since its certification in 2009. The first Addendum analyzed a series of modifications to the project. The Board considered those modifications and the Addendum on April 28, 2011 and adopted the Project as revised. A second Addendum analyzed grading outside the original project footprint. BART’s Assistant General Manager reviewed and considered the second Addendum and approved the project changes. The General Manager notified the Board of the project changes and the second Addendum in a memorandum on May 8, 2012. This current Addendum, the third, concerns the property between the Antioch Station parking lot and the Maintenance Facility. The 7.97-acre area initially would be used as a temporary staging and storage area during construction. After construction is completed, the site would remain a long-term storage area to support eBART system operations. At this time BART has no plans for any other future development or more intensive use of the site. Should BART elect to develop the site for another use in the future, consistent with BART’s existing plans and policies for development, that project would be subject to separate CEQA review.

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<sup>1</sup> Mitigation Monitoring and Reporting Plan adopted April 23, 2009 and revised April 28, 2011.

### **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 Guidelines 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 that 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, substantially more severe effects, or the feasibility or effectiveness of mitigation measures.

### **Revisions to the Project**

The eBART terminus station in Antioch is being constructed adjacent to the north side of SR 4, east of Hillcrest Avenue. The project components at this location include the station platform in the median of SR 4, together with the station entry house, station parking lot, access road, and Maintenance Facility. Exhibit 1 illustrates the overall site plan for the Antioch eBART Station and Maintenance Facility area at Hillcrest, which covers 40.13 acres.

Between the station parking lot to the west and the Maintenance Facility to the east, lies an 18.69-acre parcel, commonly known as the Parachini property after the former owners. Of the original 18.69 acres, BART used 7.94 acres for an access road from the parking lot to the Maintenance Facility and slope easements. This area was included in the eBART Final EIR impact analysis. An additional 2.78 acres adjacent to SR 4 is being transferred to the Contra Costa Transportation Authority (CCTA) for highway widening. The remaining 7.97 acres is undeveloped and will remain in BART ownership for the foreseeable future. BART is proposing to use this 7.97-acre area as a staging and storage area for rails, ties, ballast, heavy equipment, and other material during construction. Following construction, the site would provide long-term storage for eBART system operations. The use of the property as a staging and storage area was not evaluated in the Final EIR.

### **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 using the Parachini property for construction staging and a long-term storage area. The proposed storage and staging area is evaluated below 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 from the current BART terminus in Contra Costa County at the Pittsburg/Bay Point BART Station to the new Antioch Station, which is located just east of Hillcrest Avenue in the City of Antioch.

The Antioch Station will be constructed adjacent to the north side of SR 4 east of Hillcrest Avenue. The project components 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 Antioch Station and Maintenance Facility area at Hillcrest Avenue, which covers 40.13 acres.

### Proposed Staging and Storage Area

The proposed staging and storage area lies between the station parking lot to the west and the Maintenance Facility to the east. Exhibit 1 illustrates the location of the storage area within the overall site plan. The subject parcel (APN# 052-030-017) is commonly known as the Parachini property after the former owners. Of the original 18.69 acres<sup>2</sup>, BART used 7.94 acres for an access road from the station parking lot to the Maintenance Facility and slope easements. An additional 2.78 acres adjacent to SR 4 is being transferred to the Contra Costa Transportation Authority for the widening of SR 4. The remaining 7.97 acres is undeveloped and will remain in BART ownership.<sup>3</sup>

The site would initially be used as a staging area for construction of the eBART project. The staging area would be used to store rail, ties, ballast, and heavy equipment, as necessary. It would be used as a staging area for approximately 4 years. This would be the period of the most active use. Once project construction is complete, the site would serve as a long-term storage area to support eBART system operations. The site would continue to store rails, ties and ballast, similar to its use as a staging area.

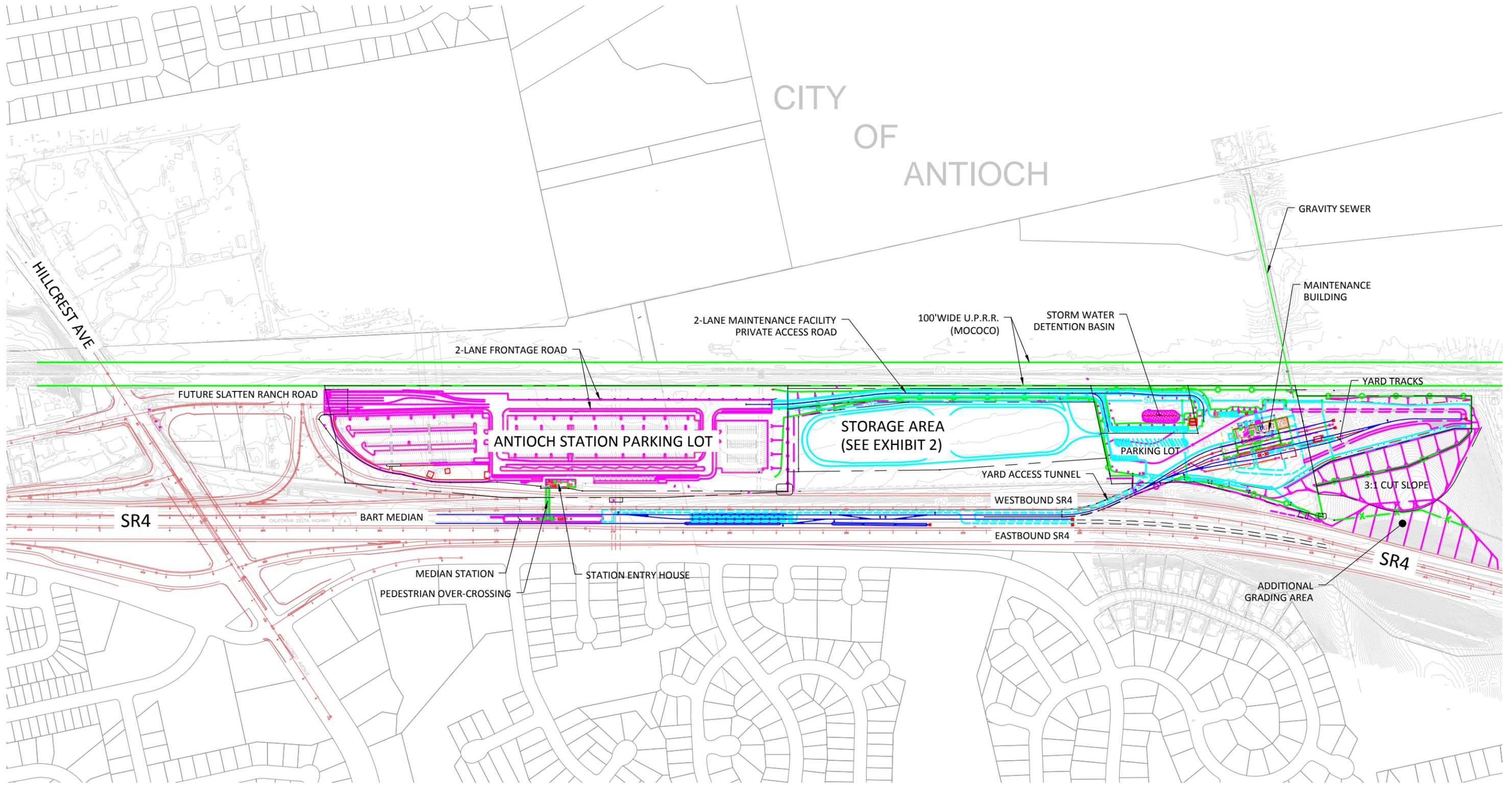
The site would not be graded. The only improvements would be placement of compacted aggregate (drain rock) to a depth of 12 inches to provide a circular driveway that would make the site useable in wet weather and a fence to provide security for the stored equipment and materials. No night lighting is planned. Exhibit 2 illustrates the BART plan for the staging and storage area.

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<sup>2</sup> The parcel size initially was stated as 18.67 acres. Subsequent surveys have determined the parcel to be 18.69 acres.

<sup>3</sup> BART took possession of the property on August 16, 2013.

At this time BART has no plans for any more intense, future development of the site. Should BART elect to develop the site for another use in the future, consistent with BART's existing plans and policies for development, that project would be subject to separate CEQA review.



TENTATIVE & PRELIMINARY  
FOR DISCUSSION PURPOSES ONLY

10.11.13  
HILLCREST TERMINAL CONSERVANCY EXHIBIT

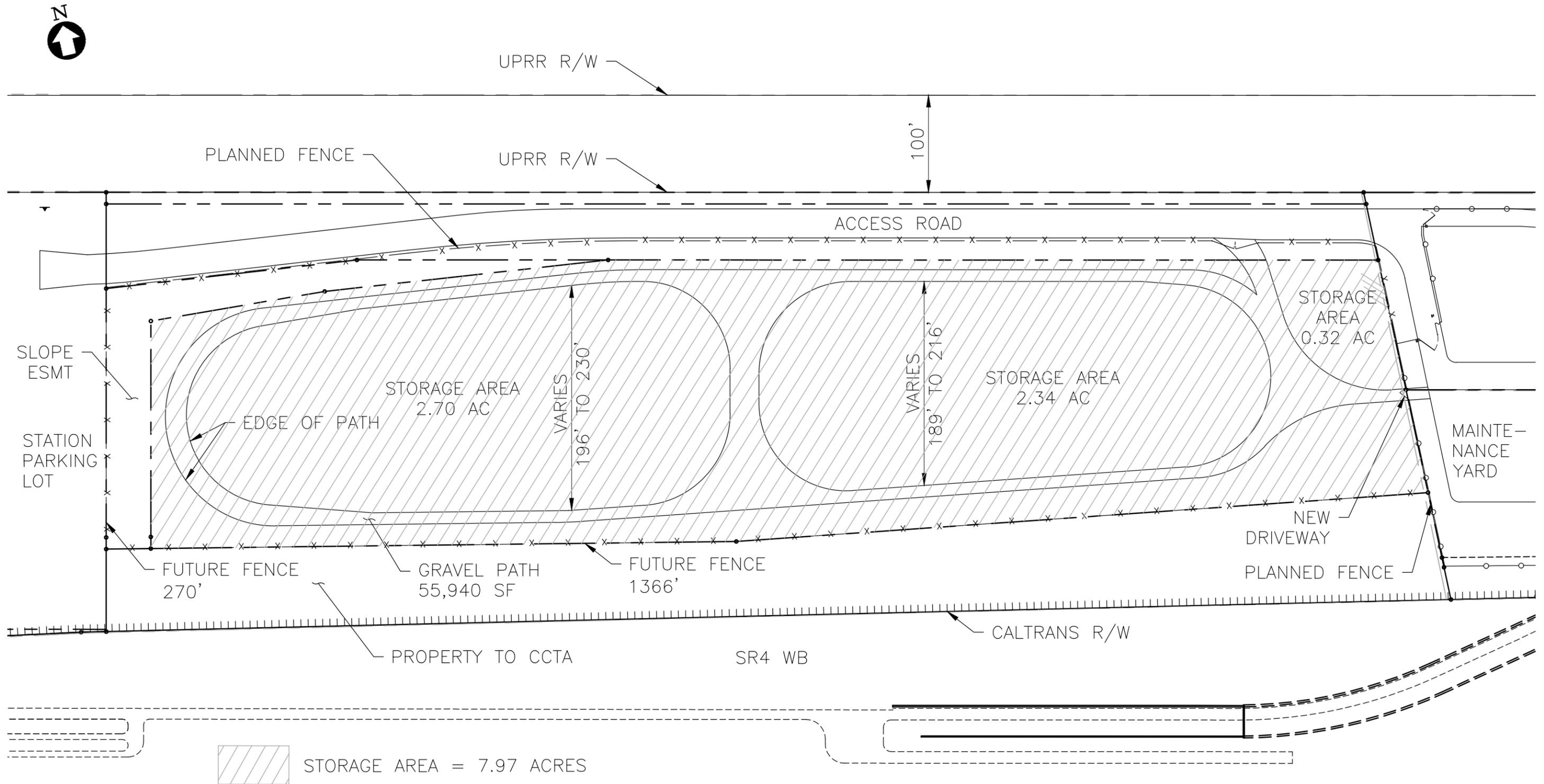
Antioch Station Parking Lot and Maintenance Facility Complex

OVERALL SITE PLAN



EAST CONTRA COSTA BART EXTENSION

EXHIBIT 1



20131011  
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### STORAGE AREA - PARACHINI PROPERTY



PLAN VIEW



# EXHIBIT 2

## 3.0 Environmental Analysis

### Existing Conditions

The Antioch Station is currently under construction. Excavation and rough grading largely have been completed and the outlines of the station parking lot and Maintenance Facility have taken shape. Utility relocations generally have been completed. The foundations for the Maintenance Facility have been constructed. The Contra Costa Transportation Authority is proceeding with its widening of SR 4 adjacent to the station site. However, the undeveloped area between the station parking lot and the Maintenance Facility was not part of the original project footprint and has been left undisturbed (Photo 1). Conditions in this area are essentially the same as those described in the FEIR and subsequent Addendums.



**Photo 1: View of the proposed staging area looking west from the Maintenance Facility.** SR 4 construction is visible left of the fence. Equipment visible in the far background is the parking lot construction.

## Transportation

The transportation analysis in the FEIR and subsequent Addendums 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. The FEIR contained a full description of the construction scenario for the eBART Project (Section 2.8, pages 2-41 to 2-48). The FEIR described four potential staging areas for construction of the eBART project; the closest one to the Antioch Station was north of SR 4 and east of Hillcrest Avenue on “currently vacant land in the vicinity of the existing BART park-and-ride facility” (FEIR, page 2-46). The existing park-and-ride facility will be used by Caltrans as part its SR 4/Hillcrest Avenue interchange improvements, and land to the east is under development as the Antioch Station parking lot. In response, BART has investigated other possible staging areas, including one on the Parachini property.

Transportation activities related to the staging area would be truck trips to move the rails, ties, ballast and other stored material in and out of the staging area. The construction scenario in the FEIR included an estimate of construction materials and the truck trips needed to transport them. Traffic delays were anticipated and discussed on page 2-47 and pages 3.2-07 to 3.2-99 of the FEIR. The FEIR acknowledged that the project construction traffic could result in significant temporary impacts to SR 4, local streets, and circulation around the proposed station areas. The FEIR included Mitigation Measure TR-9.1, which required that BART “Develop and Implement a Construction Phasing and Traffic Management Plan.” This mitigation measure has been implemented and is in place for the Antioch Station area.

The Parachini property is located in the center of the Antioch Station-Maintenance Facility complex and has direct access to the eBART right-of-way in the median of SR 4 via the new DMU maintenance-of-way tunnel. This makes it a more convenient location than other potential locations in the project vicinity, which would require longer transport distances between the staging area and the maintenance-of-way tunnel. Materials being delivered to the proposed staging area would be transported through the same local streets and intersections considered in the FEIR when the staging area was assumed to be closer to the park-and-ride facility. Use of the Parachini property as a staging area would not create any new or substantially more severe transportation impacts not already anticipated in the FEIR.

Ongoing storage for eBART system operations is provided within the eBART Maintenance Facility. The long-term storage on the Parachini property would augment the Maintenance Facility storage and would be a relatively passive use. The Parachini property is a convenient location for any potential rails, ties, ballast or heavy equipment that may be needed for eBART system operations following construction. Vehicle activity from the storage area would be greatly reduced compared to vehicle activity during staging activities, due to the reduced volume of materials being moved in and out of the site. Vehicle trips related to the storage yard are not expected to exceed an average of 4-6 vehicle trips per day. Use of the Parachini property as a long-term storage area would not create any new or substantially more severe transportation impacts not already anticipated in the FEIR analysis.

## 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 storage area is located on one parcel: an undeveloped parcel adjacent to SR 4 (APN# 052-030-017). Originally 18.69 acres, 7.97 acres of the parcel will serve as the staging and storage area.

The property is surrounded by transportation-related uses. It is bordered by the Maintenance Facility to the east, the Antioch Station parking lot to the west, the Maintenance Facility access road and the Union Pacific Railroad line to the north, and SR 4 to the south. The nearest residential uses are located across SR 4, more than 300 feet to the south. The nearest residences to the north are approximately 1,100 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 track at Willow Avenue, approximately 500 feet northeast of the property. With no residential, commercial, or industrial uses close to the site, use of the proposed staging area would not interfere with plans policies or programs, or be incompatible with surrounding land uses. The staging area would be a temporary use. After construction is completed, the site would become a long-term storage area. No additional or more severe land use impacts are anticipated due to the use of the staging and storage area.

## 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 construction scenario in the FEIR identified various properties along the eBART alignment as possible staging areas. Activities and employment associated with the staging areas and the Maintenance Facility (including storage) were included in the FEIR analysis, so relocating staging and storage activities to the proposed Parachini staging area would not create any new employment not already anticipated in the FEIR.

Parcel APN# 052-030-017 was identified as a land acquisition in the Draft EIR, Table 3.4-5 (page 3.4-12), and BART acquired the parcel on August 16, 2013, consistent with the requirements of applicable state acquisition and relocation law. The staging and storage area would make use of an undeveloped parcel. No residences or businesses would be affected, so there would be no displacement of existing uses. Impacts to Population and Housing would remain less than significant.

## 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. Although the staging area itself has not changed, the visual environment in the immediate vicinity of the staging area has changed as the Antioch Station and Maintenance Facility have taken shape around it. Both BART and CCTA are conducting major construction projects in the SR 4 corridor between Hillcrest Avenue and the SR 160 interchange: BART is constructing the terminus of the eBART system, and CCTA is widening SR 4 including median widening to accommodate the eBART system. To the casual observer, the north side of SR 4 resembles one large construction zone. Beyond

the construction in the SR 4 corridor, the visual environment has remained consistent with the description in the Final EIR. The project site is not in a scenic corridor.

The staging area would be used to store railroad rails, ties, ballast and other material prior to use. Rails and ties would be stacked vertically. Ballast is a loose material and would be stored in piles. The typical height for any of the stockpiled material would be approximately 10 to 12 feet high. A driveway of crushed drain rock would be placed on an oval around the property to provide access in wet weather. A fence would be placed around the perimeter of the staging area for security purposes. No nighttime security lighting is planned. Use of the Parachini property for staging would be visually similar to the other construction activities in the area and largely indistinguishable from them. In the short term, the proposed staging area would become one more component of the larger construction landscape. The site would be used as a staging area for approximately 4 years. Following construction, the site would continue as a storage area for many of the same materials used during construction, such as rails, ballast, and ties. Views of the storage area would be similar to views of the staging area, except that the amount of material stored there would be less than during construction staging. The security fencing would be a chain link or other "see through" style; the fencing and the aggregate for the driveway would not be visible to most viewers.

The closest residents are located approximately 300 feet to the south across SR 4. 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. There are also residences to the north, but these residences are more than 1,100 feet distant. The closest visual receptors would be auto drivers and passengers along SR 4. Auto speeds along SR 4 are frequently 65 miles per hour. Due to the limited visual exposure at those speeds, the auto drivers and passengers would not perceive the staging and storage area as a substantial change to the viewshed.

Given that the site is not in a scenic corridor, there would be no grading or structures on-site, the site would not generate any light and glare, and the lack of sensitive receptors close to the site, the staging and storage area would not create any new or substantially more severe visual impacts.

### **Cultural Resources**

The FEIR 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. Drain rock would be placed for the driveway, but material would be stored at grade, and no grading would be conducted at the staging area. Extensive grading has taken place around the Parachini property, and there is no indication that there are any unknown subsurface archaeological resources in the project vicinity. There is no reason to assume that the staging and storage area has a greater archaeological sensitivity than other areas of the eBART site. Mitigation measures in the MMRP, CR-2.1 (Follow Protocol and Procedures If Archaeological Resources Are Encountered) and CR-2.2 (Follow Protocol and Procedures If Human Remains Are Encountered), are designed to protect subsurface resources and

would apply to the staging and storage area. This would ensure that the site activities would 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. No grading or structures are planned for the site. The proposed staging and storage area would not affect the local geology or be affected by it. Therefore, the site's use for staging and storage would not create any new or substantially more severe impacts.

### **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. There are no wetland areas or drainage ways on the site; the closest wetland area is a small swale east of the Maintenance Facility approximately 1,500 feet from the proposed staging and storage area. Although construction has taken place on three sides of the site, the site itself has not been graded. Drain rock would be placed to create a driveway that would allow access in wet weather; but drain rock is pervious and would not create any new impervious surface that would affect or increase surface runoff from the site. Due to the use of heavy equipment, there is the potential for some soil erosion related to staging activities. The FEIR identified several potential impacts related to erosion control and required mitigation measures for those impacts. Mitigation Measure HY-6 (Develop and Implement a SWPPP<sup>4</sup> Outlining Specific Erosion and Sediment BMPs<sup>5</sup>) was designed to reduce or eliminate soil erosion and siltation. Mitigation Measure HY-6 and other measures would be implemented at the staging and storage area as they would for other elements of the eBART Project. This would ensure that the proposed storage activities would have a less-than-significant impact on hydrology and water quality.

### **Biological Resources**

The FEIR 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 grassland. There are no trees on the site. (See the site photo above.)

Surveys for biological resources were conducted as part of the eBART EIR evaluation, and a series of mitigation measures were identified in the EIR for biological impacts and habitat loss. Habitat loss for the eBART project was mitigated through the East Contra Costa County Conservancy Habitat Conservation Plan and Natural Community Conservation Plan (Conservancy). The Conservancy issued a Certificate of Inclusion for the Antioch Station and Maintenance Facility (Phase II) on January 26, 2012 and a second Certificate of Inclusion for additional grading (Phase II-Addendum 1.0) on September 10, 2013.

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<sup>4</sup> Stormwater Pollution Prevention Plan

<sup>5</sup> Best Management Practices

BART's agreement with the Conservancy required preconstruction surveys for Western burrowing owl, Swainson's hawk, and San Joaquin kit fox, which are listed species in the Conservancy's HCP/NCCP. Biologists began monitoring the eBART site in February 2012, and consistent with BART's agreement with the Conservancy, preconstruction surveys for sensitive animal species were conducted in August 2012. Surveys and monitoring indicated burrowing owls in the project vicinity, principally along the railroad alignment to the north. There was no evidence of Swainson's hawk; however, due to the presence of potential nest trees in the site vicinity, continued surveys and minimization measures were warranted. There was no evidence of San Joaquin kit fox; and due to the marginal nature of the habitat and its isolated location, it was determined that no further kit fox monitoring would be conducted.<sup>6</sup>

Biological surveys of the proposed staging area were conducted in May and August 2013.<sup>7</sup> (The biological assessment is attached as Appendix A.) The vegetation community in the expansion area consists primarily of disturbed non-native grassland. A review of the California Natural Diversity Data Base records and the Conservancy's Habitat Conservation Plan/Natural Community Conservation Plan species lists show that there are occurrences for 11 special-status plant species within 1.5 miles of the study area. None of these special-status plant species was observed during the surveys. The survey was conducted within the bloom period for all target species. Though the grassland in the study area may loosely correspond to the valley and foothill grassland habitat, past agricultural practices have resulted in nearly annual disturbance to this parcel. It is highly unlikely that any of the target special-status plant species remain in the seedbank in this area.

No burrowing owls, burrowing owl sign, or potentially suitable nest burrows were observed in the study area during the survey. One burrowing owl was observed in the Union Pacific Railroad right-of-way to the north and west of the study area (well outside the study area boundaries). The only small mammal burrows observed in the study area included pocket gopher burrows which are far too small to be suitable for burrowing owl occupation. Additionally, vegetation in the study area was generally 2 to 3 feet tall and very dense, which would deter burrowing owl occupation. Due to the lack of suitable burrows, and the height and density of the vegetation in the study area, it is very unlikely that burrowing owls would occupy the study area (though they could potentially forage there).

No suitable habitat for Swainson's hawk occurs within 1,000 feet of the study area and no individuals of this species were observed at the time of the surveys. The nearest known occurrence for this species occurs approximately 2,000 feet to the east/northeast of the study area. While Swainson's hawks have been known to nest at this location in the past, red-tailed hawks nested there in 2012. According to the biological technical report, the study area may provide suitable foraging habitat for the Swainson's hawk; however, there is suitable foraging habitat in the vicinity of the project site, and utilization of the staging area would not constitute a significant impact to foraging habitat for the hawk.

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<sup>6</sup> San Francisco Bay Area Rapid Transit District, eBART Construction Monitoring Plan, September 17, 2012.

<sup>7</sup> Cardno-Entrix, Technical Memorandum: Special-Status Plant and Burrowing Owl Survey for the eBART Hillcrest Station Parking Lot and Maintenance Facility Project-Antioch, California, October 24, 2013.

Although no sensitive species were found on-site, the staging and storage area is potential habitat for species covered by the Conservancy's Habitat Conservation Plan. BART currently is in the process of amending its agreement with the Conservancy to provide for the permanent loss of 7.97 acres of habitat.<sup>8</sup> Coverage for habitat loss by the Conservancy would mitigate any potential biological impacts. Therefore, use of the property for a staging and storage area would not create any new or substantially more severe impacts not already identified in the FEIR.

### **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, 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 proposed staging area; however, construction noise and vibration impacts could be significant and unavoidable, even with mitigation measures in place.

Trucks, cranes, and other heavy equipment would be used to move and load rails, ties, and other materials to be stored at the staging area, and noise generated by staging area activities would be similar to that generated by other elements of the eBART project. The eBART station platform will be in the median of SR 4, within approximately 175 feet from the closest residential properties, which are south of SR 4. Elements of the eBART Project north of SR 4, such as the parking lot and station entry house, will be constructed approximately 335 feet from the nearest residential properties. The closest residents to the staging area are located across SR 4, approximately 350 feet to the south; no closer than the closest residents are to other elements of the project. SR 4 is located on an embankment adjacent to the staging area, which would tend to shield those residences south of SR 4 from much of the noise from the staging area. There are also residences to the north, but those residences are more than 1,100 feet distant. Construction noise and vibration impacts would be no greater than those analyzed in the FEIR and 2011 Addendum. Moreover, construction noise and vibration mitigation measures identified in the MMRP would also apply to the staging area. These would include the following measures: NO-6.1 (Employ Noise Reducing Construction Practices), NO-6.2 (Designate a Noise Disturbance Coordinator, Disseminate Information to Residences and Businesses, and Implement a Response/Tracking Program), and NO-7 (Employ Vibration-Reducing Construction Practices). Therefore, there would be no new or substantially more severe impacts due to activities at the staging area.

The eBART Maintenance Facility includes storage for system operations, and the long-term proposed storage on the Parachini property following construction would augment that previously planned use. Long-term storage is a relatively passive use without much daily activity. In addition, the lack of night lighting would preclude any nighttime activity, the most noise-sensitive period. Impact NO-3 of the FEIR evaluated the noise from the eBART Maintenance Facility. The analysis was conducted according to Federal Transit Administration Guidelines and found that noise from the Maintenance Facility would

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<sup>8</sup> BART expects to request approval of Addendum 2.0 to the BART-Conservancy agreement at the Conservancy's December 2013 Board meeting.

have a less-than-significant impact. The closest sensitive receptors to the storage area are residences located south of SR 4. Although the storage area is located adjacent to SR 4, it does not extend as far to the south as the Maintenance Facility and is not as close to sensitive receptors as the Maintenance Facility. Therefore, because noise levels decrease with distance, noise generated by storage activities would not increase the expected noise levels from the Maintenance Facility and noise from operations (including storage activities) would remain less than significant.

### **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 staging and storage area would not be graded, but heavy equipment would be employed to transport and stack materials, which could produce dust and diesel particulate matter. Even with the placement of compacted aggregate to form the driveway, there may be some fugitive dust generated by equipment and activities. The FEIR identified these potential impacts and the mitigation measures that would reduce them to a less-than-significant level. These mitigation measures include AQ-8.1 (Incorporate Control Measures and Best Management Construction Practices Into the Construction Contracts) and AQ-8.2 (Implement a Construction Emissions Reduction Plan for Heavy Equipment Exhaust). With the implementation of these air quality mitigation measures, potential air quality impacts from the staging area would continue to be less than significant.

Following construction, the site would continue to be used for long-term storage; however the activity level (and vehicle use) would decrease substantially compared to the construction period. Vehicle trips are estimated to be approximately 4-6 per day. This level of vehicle activity would not generate a substantial amount of fugitive dust or emissions and would be less than significant.

### **Public Health and Safety**

The eBART EIR and Addendums identified hazards that may exist along the project corridor. Potential hazards include hazardous materials sites, overall system safety, and hazardous materials used in project construction and operation. Consistent with the mitigation measures in the MMRP, a Phase I Site Assessment Report was produced for properties to be acquired by BART, including the subject Parachini property (APN# 052-030-017).<sup>9</sup> Observations made at the site indicated that the westernmost end of the Parachini parcel adjacent to the staging area (APN# 052-030-018) contained multiple pieces of farm equipment, rubbish piles, and two 55-gallon drums with unknown contents. The location of this debris at the west end of the future station parking lot was approximately 1,700 feet (0.32 miles) west of the proposed staging and storage area. Due to its location between SR 4 and the Union Pacific Railroad and its past agricultural use, the Phase I Report also identified potential soil and groundwater contamination on-site from aerially deposited leads (ADLs) from auto exhaust, spills from railroad

<sup>9</sup> CDM, San Francisco Bay Area Rapid Transit District, eBART Phase I Environmental Site Assessment Parcels P-5020, P-5030, P-5040, and P-5060 Antioch, California, Final Report, February 25, 2011.

operations along the northern property boundary, petroleum pipelines in the railroad right-of-way, and long-term use of agricultural chemicals in the project vicinity. In addition, metals from historic industrial operations east of the eBART parcels were identified as potential pollutants.

BART conducted a Phase II soil and groundwater sampling effort to assess the potential presence of soil and groundwater contamination for the eBART project area. The results of the Phase II investigation were intended to determine soil handling requirements for construction, potential disposal issues of impacted soil and potential areas of remediation. The Phase II report was completed for the project footprint, which included the portions of the Parachini property that became the station parking lot and the access road to the Maintenance Facility.<sup>10</sup> Because the area proposed for the staging area was not included in the original project footprint, no sampling was conducted for the subject property in the Phase II Report. However, sampling was conducted at locations on three sides of the proposed staging area and may be considered generally representative of the subject property. The Phase II report made the following findings:

- Soil characteristics across the top 3 feet of all parcels exhibited no impacts from ADLs.
- Pesticides were detected at levels below effects screening levels (ESLs) at most locations, with concentrations exceeding ESLs occurring on the westernmost Parachini property (west of the project site).
- Petroleum hydrocarbons were detected in soil samples near the top of the groundwater from an undocumented release and are impacting groundwater.
- Metals from historic industrial operations did not appear to affect on-site parcels.

The proposed staging area would be used for material storage only. Given that no grading or construction would take place on-site, disturbance of soils or groundwater at the staging area would be minimal. Therefore, impacts related to the presence of any on-site contaminants would be considered less than significant.

Following construction, the site would be used for the long-term storage of materials similar to those used during construction: rails, ties, ballast, and equipment. Fuels, lubricating oils, solvents, and other vehicle-related materials would be stored elsewhere in the Maintenance Facility. There would be no impact related to hazardous materials.

### **Community Services**

The EIR and Addendum described community services, such as police, fire, and emergency medical services along the eBART corridor. The use of the Parachini property as a staging and storage area would not create any new structures, roadways, or other infrastructure that would require the need for, or provision of, community services. Transportation activities related to the staging area would be truck trips to move the rails, ties, ballast and other stored material in and out of the staging area. The FEIR identified the need for a Traffic Management Plan (Mitigation Measure CS-3.1) to reduce the potential

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<sup>10</sup> CDM, Letter Report of Findings, eBART Phase 2 Environmental Site Assessments of BART Parcels P-5020, P-5030, P-5040, P-5050, and P-5060, July 7, 2011.

for traffic disruptions and road detours that could impede emergency response times by police and fire departments. Truck traffic for materials transport was discussed in the construction scenario of the Project Description in the FEIR and included in the transportation analysis in the FEIR. The Traffic Management Plan has been implemented for the Antioch Station area, and one of its effects is to mitigate the potential impacts to emergency service response times. Following completion of construction, long-term storage activities would continue on the site. The small number of daily vehicle trips related to the storage yard (4-6) would not affect local traffic or emergency response times. There would be no new or substantially more severe impacts to community services due to the proposed staging area.

### **Utilities**

The FEIR and Addendums 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. The Final EIR also 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 utility lines crossing the project site. In addition, because the staging and storage area will not require any excavation or grading, if there were any unidentified utilities under the site, they would not be affected by the on-site activity. There would be no permanent or temporary structures onsite; therefore, the use of the site for staging and storage would not affect the water and wastewater needs of the project. There would be no new or substantially more severe impacts to utilities from the proposed staging and storage area.

### **Energy**

The Final 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 construct the Project, including staging and storage areas, was included in the energy analysis for eBART project in the FEIR. The proposed staging and storage area would not create any new or substantially more severe impacts not already discussed in the FEIR.

**APPENDIX A**

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Technical Memorandum: Special-Status Plant and Burrowing Owl Survey for the eBART Hillcrest Station  
Parking Lot and Maintenance Facility Project-Antioch California.

Cardno--ENTRIX

October 24, 2013





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# Technical Memorandum

**Date:** October 24, 2013

**To:** Don Dean

**From:** Laura Burris,  
Senior Staff Scientist/Botanist

**RE:** **Special-status Plant and Burrowing Owl Survey for the eBART Hillcrest Station Parking Lot and Maintenance Facility Project – Antioch, California**

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## 1.0 INTRODUCTION

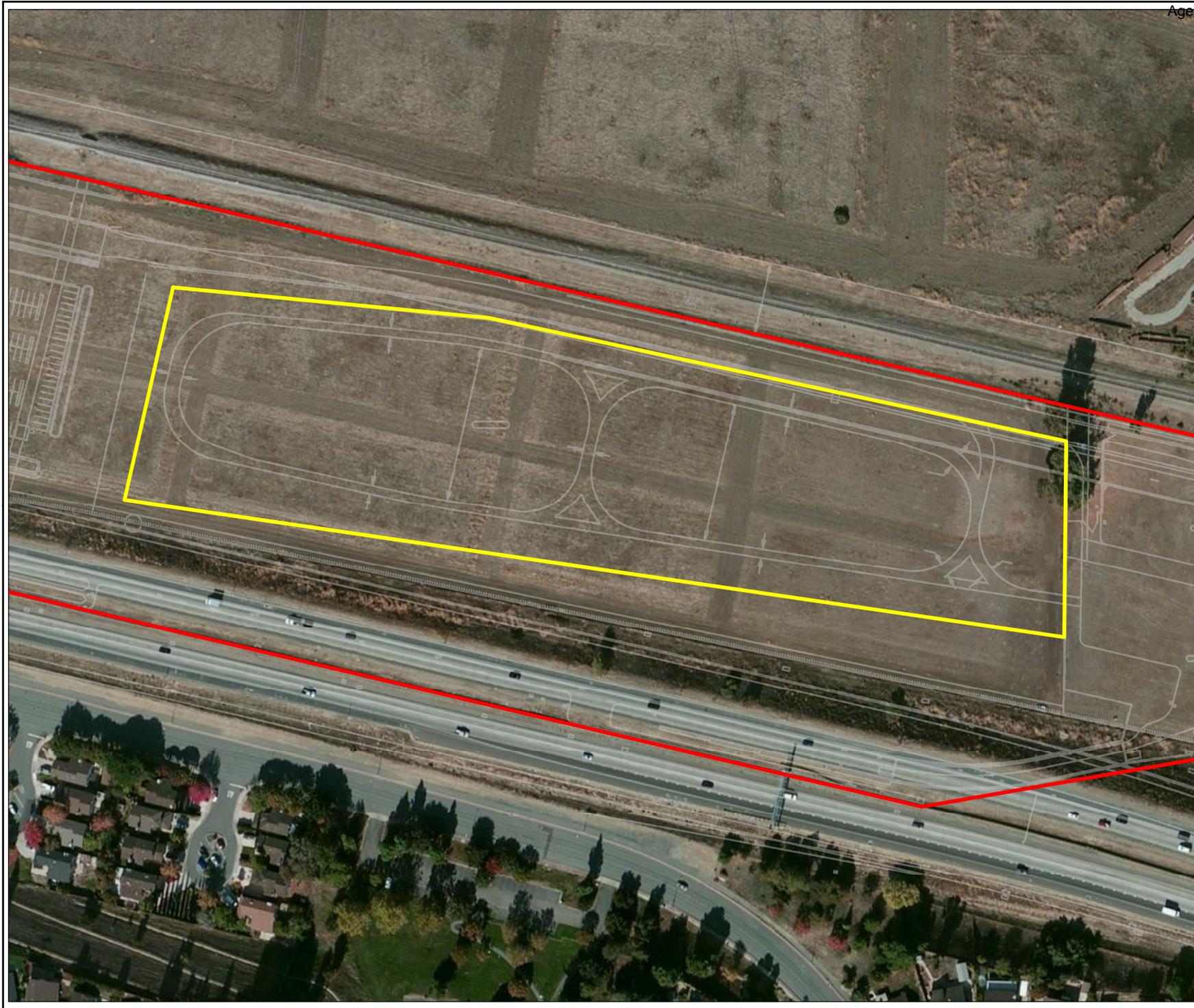
The purpose of this Technical Memorandum is to describe the methods and results for the special-status plant survey conducted at the Bay Area Rapid Transit's (BART) eBART Hillcrest Station Parking Lot and Maintenance Facility Project in Antioch, Contra Costa County, California. This survey was conducted to classify habitat types and to determine if special-status plant species are present within a section of BART-owned property located between the Parking Lot and Maintenance Facility (north of Highway 4 and south of the UPRR alignment) where equipment and materials laydown are proposed (study area). The survey also included a search for potentially suitable Swainson's hawk nesting trees, burrowing owls, or small mammal burrows suitable for burrowing owl nesting.

The study area for the special-status plant survey included the approximately 8-acre site adjacent to Highway 4 (Figure 1). The property will first be used as a staging area during the construction phase of the project, and then it will continue to be used as a permanent long-term storage yard for eBART system operations. Proposed activities include the creation of a gravel driveway in preparation for its utilization as a staging and laydown area, to ensure wet weather access, and the installation of a security fence around the perimeter of the site (Figure 1).

## 2.0 METHODS

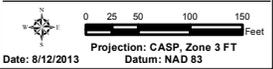
Prior to the field surveys Cardno ENTRIX biologists conducted a query of the California Department of Fish and Wildlife's (CDFW) Natural Diversity Database (CNDDDB) to determine if any of the target special-status plant species are known to occur in the vicinity of the study area. Additionally, the project area falls within the jurisdiction of the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP). A list of "covered or no take plants" with potential to occur within the habitats identified in the project area was derived from *Table 3A Species-Specific*

- Proposed Lay Down Area
- Project Boundary
- Project Site Design Features



eBART HCP Compliance Assistance

**Figure 1**  
**Proposed Design for Lay Down Area**



*Planning Survey Requirements Triggered by Land Cover Types and Habitat Elements on the project site* in the HCP's Project Planning Survey Report template (Refer to Table 1).

Site visits were conducted on May 2 and August 12, 2013. The surveys were conducted in accordance with the California Department of Fish and Wildlife's (CDFW's) *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW, 2009) and the HCP/NCCP's guidance for presence/absence surveys as outlined in the Project Planning Survey Report template. The timing of the surveys was designed to correspond to the blooming period for the target species. The surveys consisted of walking parallel transects within the study area to determine habitat suitability for the target plant species and to determine presence/absence of target species. Habitat types and plant species observed were recorded. Representative photographs were taken during the survey, and are provided at the end of this report. During the transect surveys, surveyors also watched for Swainson's hawk, suitable raptor nesting habitat, burrowing owls, burrowing owl sign (e.g., whitewash, feathers, or prey remains), or potential nest burrows.

### 3.0 RESULTS

The review of CNDDDB records and the HCP/NCCP species lists show that there is potential for 11 plants to occur within the project area (Table 1).

**Table 1: Special-status Plant Species with Potential to Occur in the Study Area**

Species	Status	Habitat requirements/blooming season	Potential for Occurrence
Alkali milkvetch, <i>Astragalus tener</i> ssp. <i>tener</i>	CRPR 1B.2, HCP-N	Alkaline soils in Playas, valley and foothill grassland (adobe clay soils), and vernal pools. Blooms: March through June	<b>None:</b> The grasslands in the study area may provide marginally suitable habitat for this species; however, past agricultural practices and the ubiquitous nature of non-native vegetation preclude the potential for this species to occur.
Big tarplant, <i>Blepharizonia plumosa</i>	CRPR 1B.1, HCP-C	Valley and foothill grassland. Blooms: July through October	<b>None:</b> The grasslands in the study area may provide marginally suitable habitat for this species; however, past agricultural practices and the ubiquitous nature of non-native vegetation preclude the potential for this species to occur.
Brewer's dwarf flax, <i>Hesperolinon breweri</i>	CRPR 1B.2, HCP-C	Usually serpentine soils in chaparral, cismontane woodland, and valley and foothill grasslands. Blooms: May through July	<b>None:</b> The grasslands in the study area may provide marginally suitable habitat for this species; however, soils in the study area are not

			comprised of serpentinite and the high degree of past agricultural disturbance likely precludes the potential for this species to occur.
Contra Costa goldfields, <i>Lasthenia conjugens</i>	FE, CRPR 1B.2, HCP-N	Valley and foothill grassland, vernal pools, cismontane woodland, extirpated from most of its range; extremely endangered. Blooms: March through June	<b>None:</b> The grasslands in the study area may provide marginally suitable habitat for this species; however, past agricultural practices and the ubiquitous nature of non-native vegetation preclude the potential for this species to occur. Additionally, this species' range is very restricted and it is not known to currently occur in the vicinity of the study area.
Diamond-petaled California poppy, <i>Eschscholzia rhombipetala</i>	CRPR 1B.1, HCP-N	Alkaline and clay soils in valley and foothill grassland Blooms: March through April	<b>None:</b> The grasslands in the study area may provide marginally suitable habitat for this species; however, past agricultural practices and the ubiquitous nature of non-native vegetation preclude the potential for this species to occur.
Hoover's cryptantha, <i>Cryptantha hooveri</i>	CRPR 1A	Valley and foothill grassland. Blooms: April through May	<b>None:</b> The grasslands in the study area may provide marginally suitable habitat for this species; however, this species is presumed extinct throughout its range. Additionally, past agricultural practices and the ubiquitous nature of non-native vegetation preclude the potential for this species to occur.
Large-flowered fiddleneck, <i>Amsinckia grandiflora</i>	FE, SE, CRPR 1B.1, HCP-N	Cismontane woodland, valley and foothill grassland. Blooms: April through May	<b>None:</b> The grasslands in the study area may provide marginally suitable habitat for this species; however, past agricultural practices and the ubiquitous nature of non-native vegetation preclude the potential for this species to occur.
Mt. Diablo buckwheat, <i>Eriogonum truncatum</i>	CRPR 1B.1, HCP-N	Chaparral, coastal scrub, valley and foothill grassland.	<b>None:</b> The grasslands in the study area may provide marginally suitable habitat for

		Blooms: April through September	this species; however, past agricultural practices and the ubiquitous nature of non-native vegetation preclude the potential for this species to occur.
Mt. Diablo fairy lantern, <i>Calochortus pulchellus</i>	CRPR 1B.2, HCP-C	Chaparral, cismontane woodland, riparian woodland, valley and foothill grasslands. Blooms: April through June	<b>None:</b> The grasslands in the study area may provide marginally suitable habitat for this species; however, past agricultural practices and the ubiquitous nature of non-native vegetation preclude the potential for this species to occur.
Round-leaved filaree, <i>California macrophylla</i>	CRPR 1B.1, HCP-C	Cismontane woodland, valley and foothill grassland. Blooms: March through May	<b>None:</b> The grasslands in the study area may provide marginally suitable habitat for this species; however, past agricultural practices and the ubiquitous nature of non-native vegetation preclude the potential for this species to occur.
Showy madia, <i>Madia radiata</i>	CRPR 1B.1, HCP-C	Cismontane woodland, valley and foothill grassland. Blooms: March through May	<b>None:</b> The grasslands in the study area may provide marginally suitable habitat for this species; however, past agricultural practices and the ubiquitous nature of non-native vegetation preclude the potential for this species to occur.

**F**=Federal; **C**=California **T**=Threatened; **E**=Endangered; **R**=Rare

**CRPR**=California Rare Plant Rank 1-4

**HCP-C**=East Contra Costa County HCP covered; **HCP-N**=East Contra Costa County HCP no take

Habitat within the study area consists of non-native annual grassland surrounded by roadways and other urban development. During the May survey, the conditions at the site were dry, possibly due to lack of rainfall early in the spring, and most of the vegetation was in an advanced stage of senescence, as is usual later in the season. Dominant species included wild oat (*Avena fatua*), Italian rye grass (*Festuca perenne*), winter vetch (*Vicia villosa*), spring vetch (*V. sativa*), black mustard (*Brassica nigra*), short pod mustard (*Hirschfeldia incana*), wild radish (*Raphanus sativa*), and Italian thistle (*Carduus pycnocephalus*). Several species of native forbs occurred in scattered patches in the southern half of the study area and included purple owl's clover (*Castilleja exserta*) and common gum plant (*Grindelia camporum*). No tree species occurred within the study area.

None of the target special-status plant species outlined in Table 1 were observed during the surveys. The

surveys were conducted within the bloom period for all target species.

No suitable nesting habitat for Swainson's hawk occurs within 1,000 feet of the study area and no individuals of this species were observed at the time of the surveys. The nearest known occurrence for this species occurs approximately 2,000 feet to the east/northeast of the study area. While Swainson's hawk have been known to nest in this location in the past, red-tailed hawks nested there in 2012. The study area may provide suitable foraging habitat for Swainson's hawk; however, there is sufficient suitable foraging habitat in the vicinity that utilization of this approximately 8-acre parcel would not constitute a significant impact to foraging habitat for this species.

No burrowing owls, burrowing owl sign or potentially suitable nest burrows were observed in the study area during the survey. One burrowing owl was observed in the UPRR ROW to the north and west of the study area (well outside the study area boundaries). This location had been mapped during the burrowing owl relocation that occurred for this project in the fall of 2012 and spring of 2013 where it was identified as BUOW nest #2. The only small mammal burrows observed in the study area included pocket gopher burrows which are far too small to be suitable for burrowing owl occupation. Additionally, vegetation in the study area was generally 2 to 3 feet tall and very dense, which would deter burrowing owl occupation.

#### 4.0 DISCUSSION

None of the target plant species were observed during the surveys. Though the grassland in the study area may loosely correspond to valley and foothill grassland habitat which presents potentially suitable habitat for many of these species, past agricultural practices have resulted in nearly annual disturbance to this area and extensive invasion of the grassland by non-native grasses and forbs. It is highly unlikely that any of the target special-status plant species remain in the seedbank in this area.

Due to the lack of suitable burrows, and the height and density of the vegetation in the study area, it is very unlikely that burrowing owls would occupy the study area (though they could potentially forage there).

Based on the results of the survey, no impacts on special-status plant species, Swainson's hawk, or burrowing owl are anticipated to occur as a result of project-related activities.

## Site Photos

### Photographs of the typical habitat within the study area



Study area, looking northwest from eastern boundary



Study area looking southwest from eastern boundary



Study area looking southeast from western boundary



Study area looking northeast from western boundary



**THIRD 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 Special 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 dated June 12, 2012 and Second Amendment dated August 14, 2012 to the Participating Special Entity Agreement. The Participating Special Entity Agreement, as amended by the First and Second 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 modifications in the Project description to include an additional area to be covered under the Permits for the East Contra Costa BART Extension Project and a corresponding increase in fees by way of this Third Amendment (the “Third 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 [and Addendum 2.0 which describes the use of a 7.97-acre undeveloped portion of the Project](#)

[site between the Antioch Station parking lot and the Maintenance Facility for a storage area.](#)

The Application 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 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 ~~\$1,175,964.80~~ ~~995,276.93~~, 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: \$767,405.72 ~~646,947.14~~

Temporary Impact Fee: \$2,367.00

Swainson's Hawk Mitigation Fee: \$30,000.00

Contribution to Recovery of Endangered Species: \$383,703.85 ~~323,474.56~~

To date the Participating Special Entity has submitted payment for \$995,276.93 in accordance with the PSE Agreement and First and Second Amendment on January 24, 2012. The additional payment for the Third Amendment totals \$180,687.87. The additional payment for the Third Amendment ~~the remainder~~ must be paid in full before any ground-disturbance associated with Addendum ~~2.01.0~~ 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 the additional payment for the Third Amendment before March 15, ~~2014~~ ~~2013~~ and construction of the portion of the Project associated with Addendum 2.0 commences before March 15, ~~2014~~~~2013~~, the amount due will be as stated above. If PSE pays on or after March 15, ~~2014~~~~2013~~ or construction of the portion of the Project associated with Addendum 2.0 does not commence before March 15, ~~2014~~~~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 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* 2005072100), dated April 23, 2009 with ~~threetwo~~ CEQA Addenda on April 28, 2011, ~~and on~~ April 18, 2012, and on November 21, 2013 respectively, which evaluated and addressed the modifications to the Project as reflected in Addendum ~~2.0+0~~. The Conservancy is a CEQA responsible agency for purposes of the Project and, as such, will rely on the Environmental Impact Report and associated Addenda prepared by BART for purposes of fulfilling its responsibilities under CEQA.

4. 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 \$45,000 ~~40,000~~ 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 Third 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 Third Amendment.
- E. This Third Amendment shall take effect on the date after both of the following have occurred:
  1. The Conservancy and PSE have executed the Third Amendment; and
  2. The Conservancy has delivered written notice to PSE that the Conservancy has received written concurrence from the Wildlife Agencies regarding the Third Amendment in accordance with Section 6.1 of the PSE Agreement.

**IN WITNESS WHEREOF**, the Conservancy and PSE hereto execute this Third 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: \_\_\_\_\_  
ROBERT POWERS, Assistant General  
Manager, Planning and 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*

## PHASE II-Addendum 2.0

### Project Applicant Information:

Project Name: East Contra Costa eBART Phase II – Addendum 2.0  
Project Applicant's  
Company/Organization: San Francisco Bay Area Rapid Transit District (BART)  
Contact's Name: Zach Amare, P.E.  
Contact's Phone: 510-287-4845 Fax: 510-287-4860  
Contact's Email: zamare@bart.gov  
Mailing Address: San Francisco Bay Area Rapid Transit District  
300 Lakeside Drive, LKS-21  
Oakland, CA 94612

### Project Description:

Lead Project Planner: Donald Dean (BART) and Krystal Hinojosa (Conservancy)  
Project Location: North of State Route 4 (SR 4) right-of-way, south of Union Pacific Railroad (UPRR) tracks, east of Hillcrest Avenue  
Project APN(s) #: 052-030-017  
Number of Parcels/Units: One parcel  
Size of Parcel: The original parcel size was approximately 18.69 acres. Approximately 5.23 acres of the parcel are being developed for the station parking lot, and approximately 2.71 acres are being developed for the access road to the Maintenance Facility or have a slope easement. In addition, 2.78 acres adjacent to State Route 4 will be transferred to Caltrans ownership, leaving a 7.97-acre remainder. The 7.97-acre remainder is undeveloped and is the subject of this application.  
Project Description/Purpose: eBART is a rail transit project that will extend approximately 10 miles in the median of 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 current application proposes to use a 7.97-acre undeveloped portion of the project site between the Antioch Station parking lot and the Maintenance Facility. Initial use of the site would be as a construction staging area. Following construction, the site would become a long-term storage area for eBART system operations.

Use of the site would be similar during both construction and eBART operations. The area would be used to store rail, ties, ballast, and heavy equipment as necessary. The site would not be graded. The only improvements would be placement of compacted aggregate to a depth of 12 inches to provide a circular driveway that would make the staging area useable in wet weather and a security fence around the perimeter of the staging area.

BART is requesting an amendment to the Phase II agreement with the Conservancy to mitigate the permanent loss of the 7.97 acres of habitat.

## 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](mailto:sam.bacchini@cardno.com)

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

## Executive Summary

The purpose of this Addendum is to request that the East Contra Costa County Conservancy (Conservancy) approve an amendment to the eBART Phase II Planning Survey Report (PSR) to address one proposed change in the project description. The change is the use of 7.97 acres of undeveloped property as a staging area to facilitate the construction of the eBART project. Following construction, the area would continue as a long-term storage area to support operation of the eBART system. Use of the site would be similar during both construction and operations; the area would be used to store rail, ties, ballast, and heavy equipment as necessary. The site would not be graded. The only improvements would be placement of compacted aggregate to a depth of 12 inches to provide a circular driveway that would make the staging area useable in wet weather and construction of a security fence around the perimeter of the site. This application, Phase II - Addendum 2.0, covers an additional 7.97 acres not covered under the previous applications. The location of the staging area and project plans are presented in Section I below.

Table ES-1 presents the acreage affected by each phase of the eBART project. The initial Phase II project agreement permitted 40.13 acres, comprised of 37.91 acres of permanent disturbance and 2.22 acres of temporary disturbance. Addendum 1.0 added 2.56 acres of permanent disturbance creating a new total of 42.69 acres covered under the BART-Conservancy agreement. The proposed staging and storage area would permanently disturb an additional 7.97 acres. The new combined acreage total for the eBART project would be 50.66 acres. Overall, the staging area would represent an increase of 19 percent compared to the previous coverage.

**TABLE ES-1  
ACREAGE SUMMARY: PHASE II, ADDENDUM 1.0, AND PROPOSED ADDENDUM 2.0  
(Permanent and Disturbed Acreage)**

<b>Project Component</b>	<b>Permanently Disturbed Acreage</b>	<b>Temporarily Disturbed Acreage</b>	<b>Total Acreage</b>
Initial Phase II	37.91	2.22	40.13
Addendum 1.0-Additional Grading	2.56		2.56
Subtotal-Initial Phase II and Addendum 1.0	40.47	2.22	42.69
<b>Addendum 2.0-Staging Area</b>	<b>7.97</b>		<b>7.97</b>
<b>Combined Total: Phase II plus Addendums 1.0 and 2.0</b>	<b>48.44</b>	<b>2.22</b>	<b>50.66</b>

Source: BART, October 2013

The mitigation fee for the 7.97 acres of disturbed habitat would be \$180,687.87. Of this cost, \$120,458.58 would be for permanent impacts to the habitat and \$60,229.29 would be for contribution to recovery. With the addition of the 7.97-acre staging and storage area, BART's total fees for the eBART Phase II Project will be \$1,175,964.80. Table ES-2 presents a summary of the East Contra Costa County Conservancy HCP/NCCP fees for the eBART Phase II project, Addendum 1.0, and the proposed Addendum 2.0.

**TABLE ES-2**  
**HCP/NCCP FEE SUMMARY: PHASE II, ADDENDUM 1.0, AND PROPOSED ADDENDUM 2.0**

<b>Project Component</b>	<b>Development Fee Permanent Disruption</b>	<b>Development Fee Temporarily Disturbed</b>	<b>Contribution to Recovery</b>	<b>Other<sup>a</sup></b>	<b>Credit<sup>b</sup></b>	<b>Total</b>
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
Addendum 2.0	120,458.58		60,229.29			180,687.87
<b>Total</b>	<b>\$767,405.72</b>	<b>\$2,367.00</b>	<b>\$383,703.85</b>	<b>\$30,000.00</b>	<b>&lt;\$7,511.77&gt;</b>	<b>\$1,175,964.80</b>

Source: BART, October 2013

Notes:

<sup>a</sup>Mitigation for Swainson's hawk tree replacement.

<sup>b</sup>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 is being constructed in phases.

**Phase I.** Phase I consists of construction of the transfer platform in the median of State Route 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 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. A credit for that unused acreage was issued in Phase II.)

**Phase II.** The second phase of the eBART project consists of construction of the Antioch Station, the terminus station east of Hillcrest Avenue, which includes the station parking lot, access road, and Maintenance Facility. Figure 1 (below) illustrates the overall site plan for the eBART Phase II Project. The Conservancy issued mitigation 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.

**Phase II-Addendum 1.0.** The first addendum to the Phase II project (Addendum 1.0) was the coverage of an additional 2.56 acres to allow excavation of a knoll at the east end of the project site. This provided 53,000 cubic yards of soil and allowed the contractors to balance cut and fill on the site.

## Proposed Project Description Modifications (Addendum 2.0)

The purpose of this Addendum is to request that the East Contra Costa County Conservancy approve an amendment to the eBART Phase II Planning Survey Report (PSR) to address one proposed change in the project description. The change is the use of 7.97 acres of undeveloped property between the Antioch Station parking lot and Maintenance Facility. The site initially would be used as a staging area to facilitate the construction of eBART rail line. Following construction, the site would be used as a long-term storage area to support operation of the eBART system.

The original parcel size was approximately 18.69 acres.<sup>1</sup> Approximately 5.23 acres of the parcel are being developed for the station parking lot, and approximately 2.71 acres are being developed for the access road to the Maintenance Facility or have a slope easement.<sup>2</sup> In addition, 2.78 acres adjacent to State Route 4 will be transferred to Caltrans ownership, leaving a 7.97-acre remainder. The 7.97-acre remainder is undeveloped and is the subject of this application.

<sup>1</sup> The parcel size initially was stated as 18.67 acres in the January 2012 Planning Survey Report. Subsequent surveys have determined the parcel to be 18.69 acres.

<sup>2</sup> The 7.94 acres developed is less than that anticipated in the January 2012 PSR (8.38 acres). The larger acreage number was mitigated in the Phase II development fee.

Use of the site would be similar during both construction and eBART operations; the area would be used to store rail, ballast, and heavy equipment, as necessary. The site would not be graded. The only improvements would be placement of compacted aggregate to a depth of 12 inches to provide a circular driveway that would make the staging area useable in wet weather and a fence around the perimeter of the site to provide security for the stored equipment and materials. Figure 1 illustrates the eBART Antioch Station area, with the location of the staging and storage area indicated between the station parking lot and the Maintenance Facility. Figure 2 illustrates the plan view of the site. Table 1 identifies the parcel where the staging and storage area would be located.

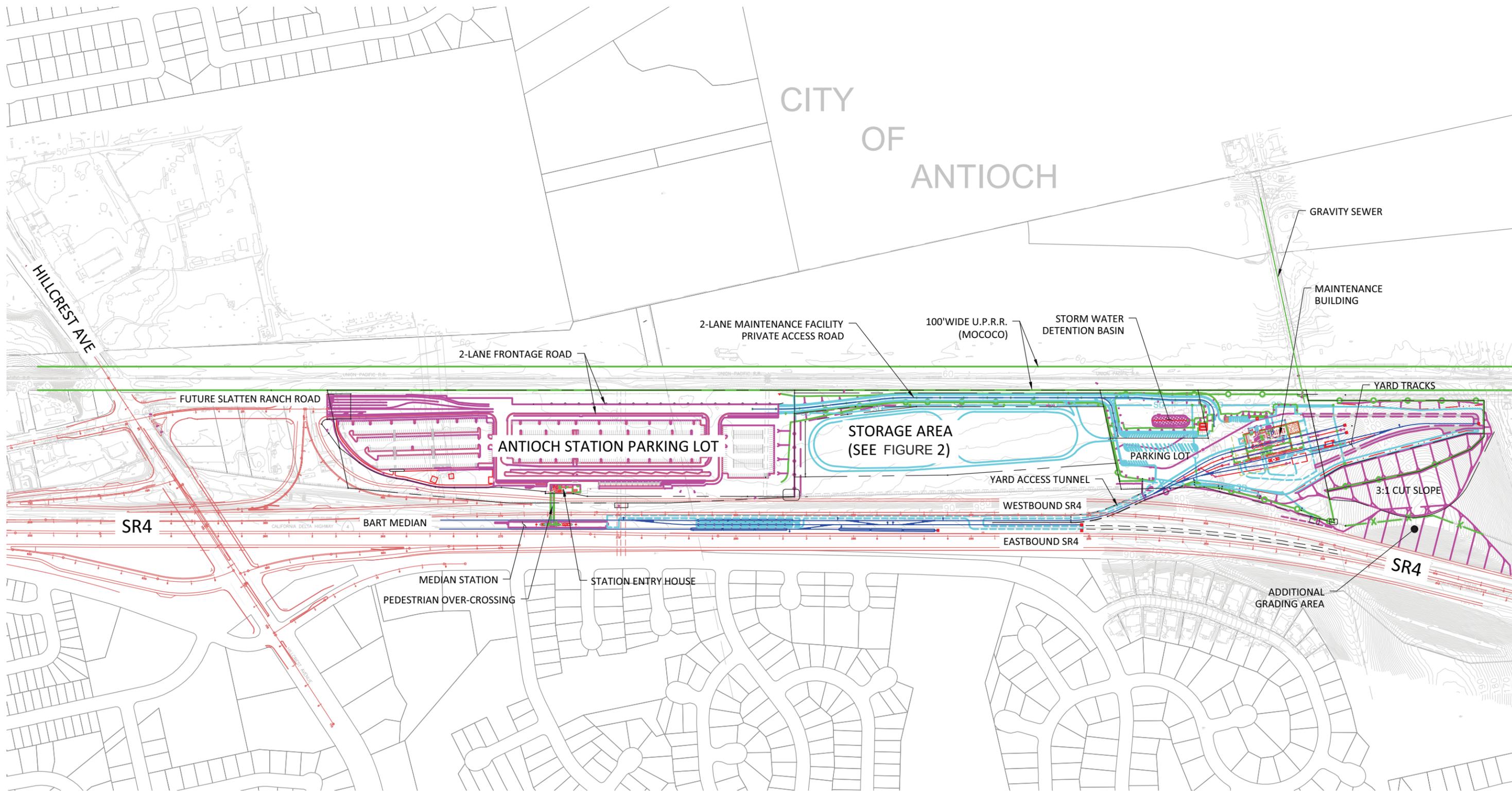
**TABLE 1.**  
**eBART PHASE II - ADDENDUM 2.0 – AFFECTED PARCELS**

<b>Project Component/ Assessor Parcel Number</b>	<b>Owner</b>	<b>Total Acreage of Parcel (approx)</b>	<b>Acreage Required for the Project (approx)</b>
<b>Staging Area</b>			
052-030-017	BART <sup>a</sup>	18.69 <sup>b</sup>	7.97 <sup>b</sup>

Source: BART, October 2013

<sup>a</sup>. BART acquired the property on August 16, 2013.

<sup>b</sup>. BART has already developed 7.94 acres of the parcel as part of Phase II and Contra Costa Transportation Authority will acquire 2.78 acres, leaving a 7.97-acre remainder. Also, see Footnote 1 above.



TENTATIVE & PRELIMINARY  
FOR DISCUSSION PURPOSES ONLY

10.11.13  
HILLCREST TERMINAL CONSERVANCY EXHIBIT

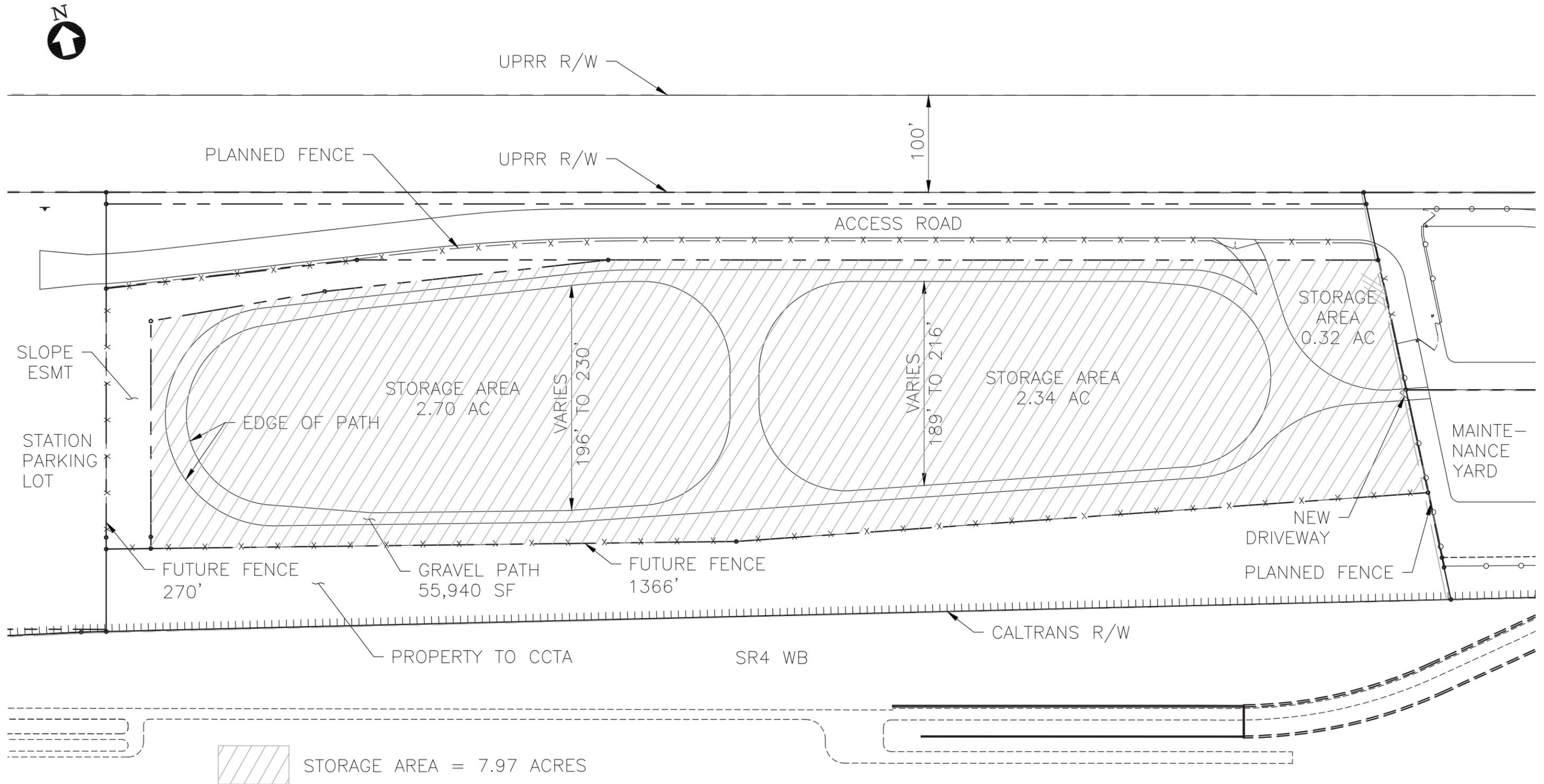
Antioch Station Parking Lot and Maintenance Facility Complex

OVERALL SITE PLAN



EAST CONTRA COSTA BART EXTENSION

FIGURE 1



20131011  
K:\17.0 Final Design\_Drawings\04SF-150-CONTRACT\Exhibits\PATH.dwg

### STORAGE AREA - PARACHINI PROPERTY



PLAN VIEW



## FIGURE 2

## II. Existing Conditions and Impacts

### Land Cover Types

A land cover survey was conducted for the proposed staging area on May 13, 2013 by Cardno-Entrix biologists. Land cover within the 7.97-acre study area consists of non-native grassland, which is surrounded by roadways and other urban development. Table 2 provides the acreages for the land cover types found within the proposed staging area. Figure 4A-2 of the Project Survey Report (January 2012) has been updated to include the land cover type for the proposed storage area. A representative photo of the project site is provided below.

**TABLE 2**  
**EBART PHASE II-ADDENDUM 2.0 – PROJECT SITE LAND COVER TYPES IN ACRES**

Impact Acres of the Project:	Staging Area	Staging Area
Land Cover Type	Acreage of Land to be "Permanently Disturbed" by Project	Acreage of Land to be "Temporarily Disturbed" by Project
<b>Grassland</b>		
<input checked="" type="checkbox"/> Annual grassland	7.97	0.00
<b>Total (Acres to be impacted)</b>	<b>7.97</b>	<b>0.00</b>

Source: Cardno ENTRIX and BART, May 2013

### Biological Survey Results

Biological field surveys were conducted on May 13 and August 12, 2013 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 grassland. Dominant species included wild oat (*Avena fatua*), Italian rye grass (*Festuca perenne*), winter vetch (*Vicia villosa*), spring vetch (*V. sativa*), black mustard (*Brassica nigra*), short pod mustard (*Hirschfeldia incana*), wild radish (*Raphanus sativa*), and Italian thistle (*Carduus pycnocephalus*). Several species of native forbs occurred in scattered patches in the southern half of the study area and included purple owl's clover (*Castilleja exserta*) and common gum plant (*Grindelia camporum*). No tree species occurred within the study area.

A review of the California Natural Diversity Data Base records and the Conservancy's Habitat Conservation Plan/Natural Community Conservation Plan species lists show that there are occurrences for 11 special-status plant species within 1.5 miles of the study area. These species include Alkali milkvetch (*Astragalus tener ssp. tener*), big tarplant (*Blepharizonia plumosa*), brewer's dwarf flax (*Hesperolinon breweri*), Contra Costa goldfields (*Lasthenia conjugens*), diamond-petaled California poppy (*Eschscholzia rhombipetala*), Hoover's cryptantha (*Cryptantha hooveri*), large-flowered fiddleneck (*Amsinckia grandiflora*), Mt. Diablo buckwheat (*Eriogonum truncatum*), Mt. Diablo fairy lantern (*Calochortus pulchellus*), round-leaved filaree (*California macrophylla*), and showy madia (*Madia radiata*). None of these special-status plant species was observed during the surveys. The surveys were conducted within the bloom period for all target species. Though the grassland in the study area may loosely correspond to the valley and foothill grassland habitat, past agricultural practices have resulted in

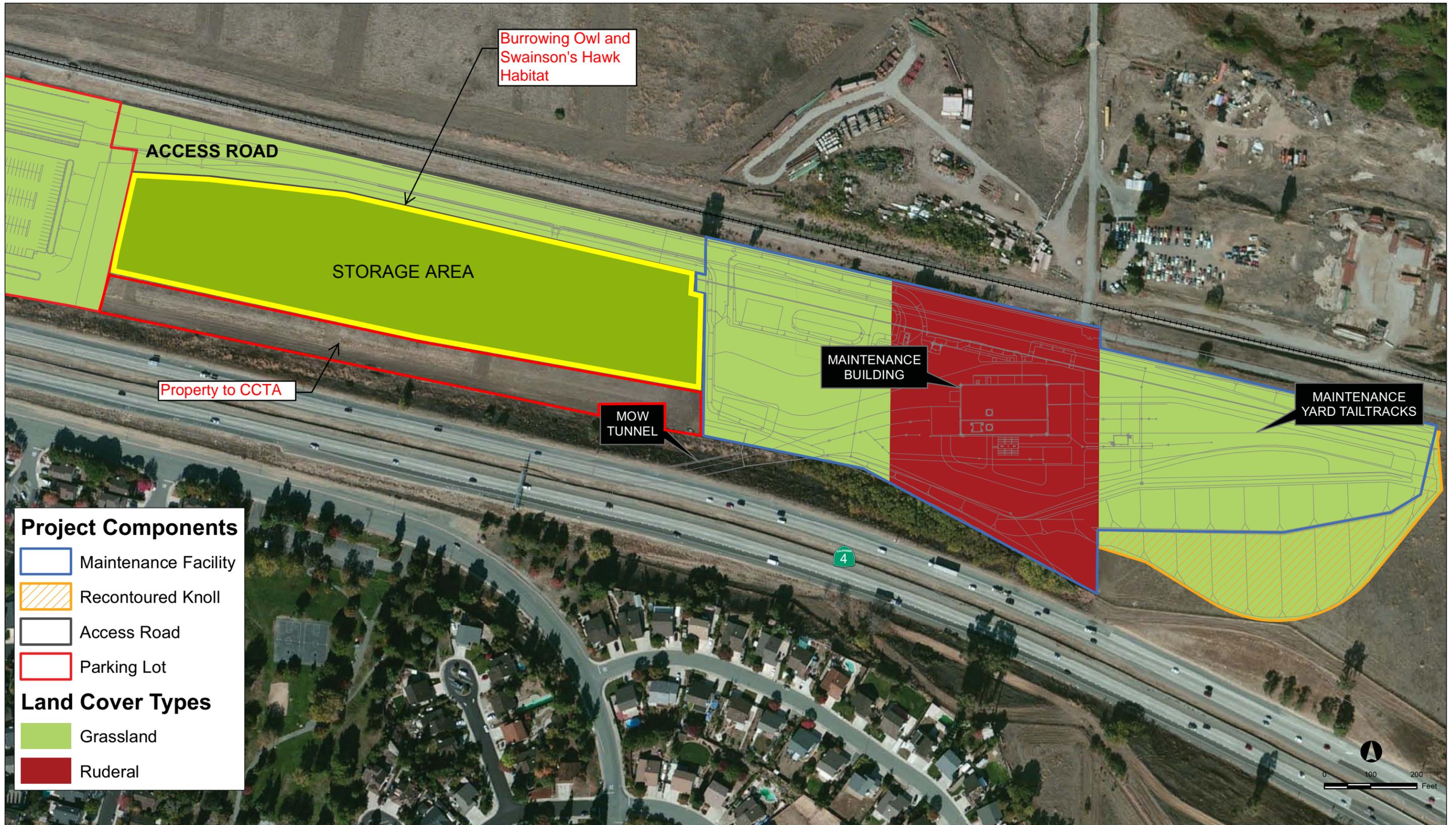
nearly annual disturbance to this parcel. It is highly unlikely that any of the target special-status plant species remain in the seedbank in this area.

No burrowing owls, burrowing owl sign, or potentially suitable nest burrows were observed in the study area during the survey. One burrowing owl was observed in the Union Pacific Railroad right-of-way to the north and west of the study area (well outside the study area boundaries). The only small mammal burrows observed in the study area included pocket gopher burrows which are far too small to be suitable for burrowing owl occupation. Additionally, vegetation in the study area was generally 2 to 3 feet tall and very dense, which would deter burrowing owl occupation. Due to the lack of suitable burrows, and the height and density of the vegetation in the study area, it is very unlikely that burrowing owls would occupy the study area (though they could potentially forage there).

No suitable habitat for Swainson's hawk occurs within 1,000 feet of the study area and no individuals of this species were observed at the time of the surveys. The nearest known occurrence for this species occurs approximately 2,000 feet to the east/northeast of the study area. While Swainson's hawks have been known to nest at this location in the past, red-tailed hawks nested there in 2012. According to the biological technical report, the study area may provide suitable foraging habitat for the Swainson's hawk; however, there is suitable foraging habitat in the vicinity of the project site, and utilization of the staging area would not constitute a significant impact to foraging habitat for the hawk.

### **Jurisdictional Wetlands and Waters**

There are no jurisdictional wetlands or waters within the area of disturbance. The closest wetland feature is a swale that supports freshwater marsh habitat approximately 1,500 feet east of the staging area and beyond the project boundaries.



Source: PGH Wong; Atkins, 2011.  
 Access road and maintenance facility area are preliminary and subject to change.  
 All land cover within the maintenance facility and access road area would be permanently disturbed except for 2.22 acres identified in the figure as the recontoured knoll. This area is considered to be temporarily disturbed.

**LAND COVER WITHIN MAINTENANCE FACILITY AND ACCESS ROAD AREA**  
 FIGURE 4A-2



**Photo 1: View of proposed staging area looking west from Maintenance Facility. SR 4 construction is visible to left of fence. Equipment in distant background is eBART parking lot construction.**

### 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

Based on the results of the original planning surveys, preconstruction surveys were required for Phase II for Western burrowing owl, Swainson's hawk, and San Joaquin kit fox.

**TABLE 3  
APPLICABLE PRECONSTRUCTION SURVEY AND NOTIFICATION REQUIREMENTS**

Species	Preconstruction Survey and Notification Requirements
<input type="checkbox"/> None	
<input type="checkbox"/> 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.
<input checked="" type="checkbox"/> 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.)
<input type="checkbox"/> Giant garter snake (p. 6-44)	Delineate aquatic habitat up to 200 ft. from water's edge. Document any sightings of garter snake.
<input type="checkbox"/> California tiger salamander (p. 6-46) (notification only)	Provide written notification to USFWS and CDFW regarding timing of construction and likelihood of occurrence in the project area.
<input type="checkbox"/> California red-legged frog (p. 6-47) (notification only)	Provide written notification to USFWS and CDFW regarding timing of construction and likelihood of occurrence in the project area.
<input type="checkbox"/> 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.
<input type="checkbox"/> Townsend's big-eared bat (p. 6-37)	Determine if site is occupied or shows signs of recent occupation (guano).
<input checked="" type="checkbox"/> Swainson's hawk (p. 6-42)	Determine whether nests are occupied.
<input type="checkbox"/> Golden eagle (p. 6-39)	Determine whether nests are occupied.

Note: Page numbers refer to the HCP/NCCP.

Source: HCP/NCCP

These surveys indicated that although burrowing owls are definitely present and Swainson's hawk may be present in the project area, the probability of kit fox on the site is very low.<sup>3</sup> Therefore no species-specific preconstruction surveys for kit fox will be conducted. 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.

### Burrowing Owl

Prior to any ground disturbance related to covered activities, a USFWS/CDFW 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 CDFW 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 CDFW 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 of 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.

## 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 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.

BART completed, and the Conservancy approved, the eBART Construction Monitoring Plan (CMP) in September 2012. The CMP has been implemented for all eBART construction activities at the Antioch Station site, and all activities on the 7.97-acre staging area site also will be governed by the CMP.

<sup>3</sup> San Francisco Bay Area Rapid Transit District and Cardno-Entrix, eBART Construction Monitoring Plan, September 17, 2012.

**TABLE 4  
APPLICABLE CONSTRUCTION MONITORING REQUIREMENTS**

Species Assessed by Preconstruction Surveys	Monitoring Action Required if Species Detected
<input type="checkbox"/> None	N/A
<input type="checkbox"/> 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.
<input checked="" type="checkbox"/> Western burrowing owl (p. 6-40)	Establish buffer zones (250 ft) around nests. Establish buffer zones (160 ft) around burrows.
<input type="checkbox"/> 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.
<input type="checkbox"/> 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.
<input checked="" type="checkbox"/> 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.
<input type="checkbox"/> Golden eagle (p. 6-39)	Establish 0.5-mile buffer around active nest and monitor compliance.

Source: HCP/NCCP

## Construction Monitoring & Avoidance and Minimization Measures as Required for Selected Covered Wildlife

This section describes the construction monitoring and avoidance and minimization measures applicable to the species checked in Table 3 above. The construction monitoring & avoidance and minimization measures requirements are described in detail in Section 6.4.3, Species-Level Measures, of the HCP/NCCP.

### 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 the 160-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 CDFW/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 CDFW. While the nest is occupied, activities outside the buffer can take place.

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

Similar to the Antioch Station parking lot, access road, and Maintenance Facility covered in the Phase II agreement, the proposed staging area is non-native grassland. The avoidance and minimization measures in the Phase II PSR and agreement for the eBART project as a whole would also apply to the staging 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 1.8. 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 4 Impacts (June 27, 2013 Template) for permanent disturbance. The fee for Addendum 2.0 covers impacts to 7.97 acres of grassland land cover. BART would pay this development fee (\$120,458.58), plus a 50 percent contribution to recovery of endangered species (\$60,229.29). Total mitigation fees owed by BART are \$180,687.87. All fees shall be paid within 30 days of receiving an 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 2.0

APN (s): 052-030-017

Date: November 26, 2013

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)<sup>1</sup>**

		Full Development Fee		Fee per Acre (subject to change on 3/15/14 <sup>2</sup> )	
Fee Zone 1	_____		x	\$10,076.00 =	\$0.00
Fee Zone 2	_____		x	\$20,152.00 =	\$0.00
Fee Zone 3	_____		x	\$5,038.00 =	\$0.00
Fee Zone 4 <sup>3</sup>	7.97		x	\$15,114.00 =	\$120,458.58
<b>Development Fee Total =</b>					<b>\$120,458.58</b>

### \*\*WETLAND MITIGATION FEE

		Acreage of wetland		Fee per Acre (subject to change on 3/15/14 <sup>2</sup> )	
Riparian woodland / scrub	_____		x	\$87,978.00 =	\$0.00
Perennial Wetland	_____		x	\$129,261.00 =	\$0.00
Seasonal Wetland	_____		x	\$299,636.00 =	\$0.00
Alkali Wetland	_____		x	\$302,668.00 =	\$0.00
Ponds	_____		x	\$163,972.00 =	\$0.00
Aquatic (open water)	_____		x	\$81,986.00 =	\$0.00
Slough / Channel	_____		x	\$119,488.00 =	\$0.00
<b>Linear Feet</b>					
<b>Streams</b>					
Streams 25 Feet wide or less (Fee is per Linear Foot)	_____		x	\$334.00 =	\$0.00
Streams greater than 25 feet wide (Fee is per Linear Foot)	_____		x	\$501.00 =	\$0.00
<b>Wetland Mitigation Fee Total =</b>					<b>\$0.00</b>

### 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	_____
<b>Reduction Total =</b>	
<b>\$0.00</b>	

### CALCULATE FINAL FEE

Development Fee Total		\$120,458.58		
Wetland Mitigation Fee Total	+	\$0.00		
<b>Fee Subtotal</b>		<b>\$120,458.58</b>		
<b>Contribution to Recovery</b>		<b>+</b>	<b>\$60,229.29</b>	
<b>TOTAL AMOUNT TO BE PAID =</b>				
<b>\$180,687.87</b>				

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 The Conservancy Board adopted a periodic fee audit required by the HCP/NCCP on June 27, 2013. The fee schedule listed above is based on the periodic fee audit as adopted on June 27, 2013.
- 3 "Fee Zone 4" is not shown on Figure 9.1 of the HCP/NCCP but refers to the fee applicable to those few covered activities located in northeastern Antioch (see page 9-21 of the HCP).

**Template date: June 27, 2013**

**APPENDIX A**

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**Technical Memorandum: Special-Status Plant and Burrowing Owl Survey for the eBART  
Hillcrest Station Parking Lot and Maintenance Facility Project-Antioch California**

**Cardno-ENTRIX**

**October 24, 2013**



Cardno ENTRIX  
 701 University Ave, Suite 200  
 Sacramento, CA 95825  
 916-923-1097 | Fax 916-923-6251 www.cardnoentrix.com

# Technical Memorandum

**Date:** October 24, 2013

**To:** Don Dean

**From:** Laura Burris,  
Senior Staff Scientist/Botanist

**RE:** **Special-status Plant and Burrowing Owl Survey for the eBART Hillcrest Station Parking Lot and Maintenance Facility Project – Antioch, California**

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## 1.0 INTRODUCTION

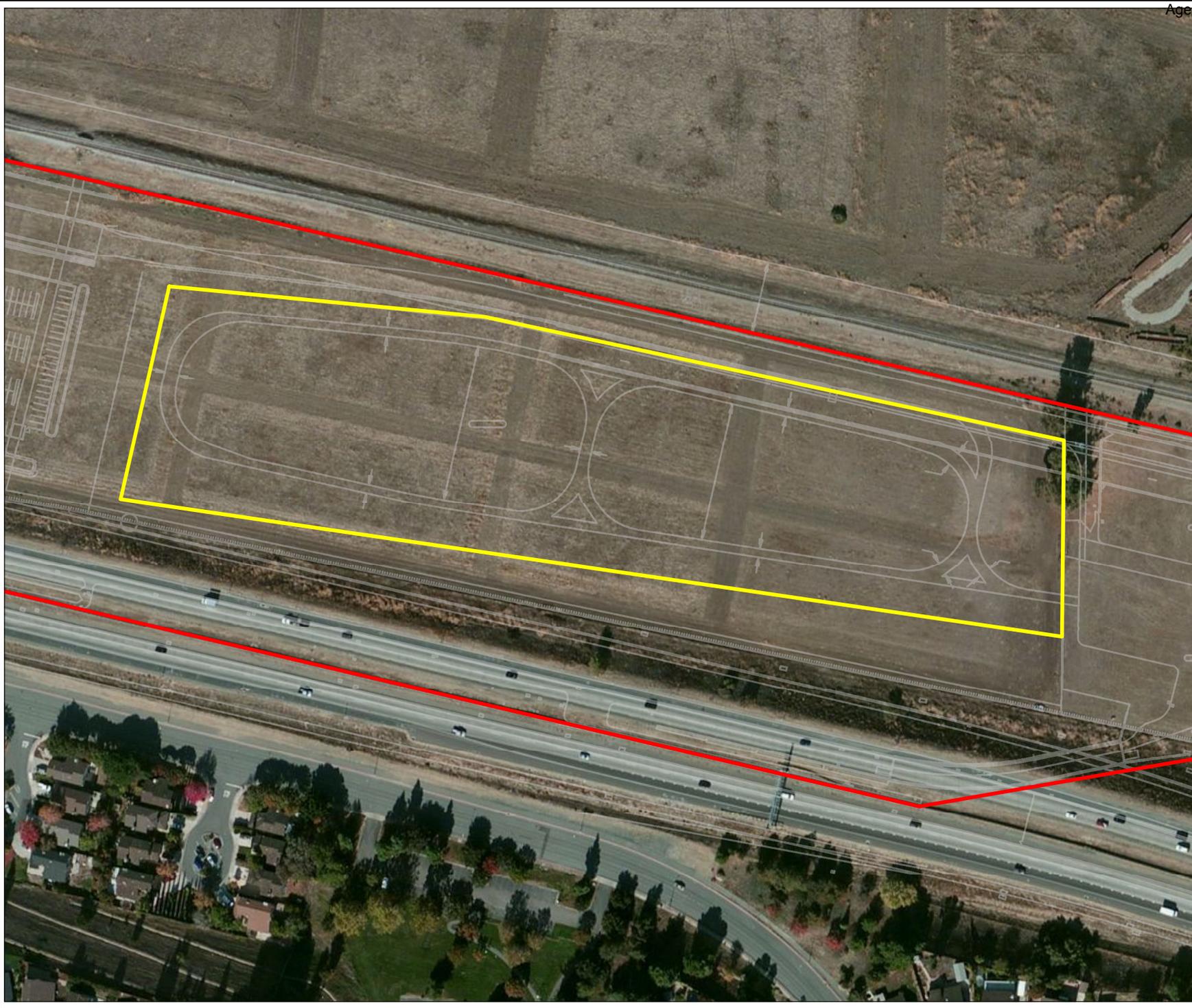
The purpose of this Technical Memorandum is to describe the methods and results for the special-status plant survey conducted at the Bay Area Rapid Transit's (BART) eBART Hillcrest Station Parking Lot and Maintenance Facility Project in Antioch, Contra Costa County, California. This survey was conducted to classify habitat types and to determine if special-status plant species are present within a section of BART-owned property located between the Parking Lot and Maintenance Facility (north of Highway 4 and south of the UPRR alignment) where equipment and materials laydown are proposed (study area). The survey also included a search for potentially suitable Swainson's hawk nesting trees, burrowing owls, or small mammal burrows suitable for burrowing owl nesting.

The study area for the special-status plant survey included the approximately 8-acre site adjacent to Highway 4 (Figure 1). The property will first be used as a staging area during the construction phase of the project, and then it will continue to be used as a permanent long-term storage yard for eBART system operations. Proposed activities include the creation of a gravel driveway in preparation for its utilization as a staging and laydown area, to ensure wet weather access, and the installation of a security fence around the perimeter of the site (Figure 1).

## 2.0 METHODS

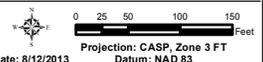
Prior to the field surveys Cardno ENTRIX biologists conducted a query of the California Department of Fish and Wildlife's (CDFW) Natural Diversity Database (CNDDDB) to determine if any of the target special-status plant species are known to occur in the vicinity of the study area. Additionally, the project area falls within the jurisdiction of the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP). A list of "covered or no take plants" with potential to occur within the habitats identified in the project area was derived from *Table 3A Species-Specific*

- Proposed Lay Down Area
- Project Boundary
- Project Site Design Features



eBART HCP Compliance Assistance

**Figure 1**  
**Proposed Design for Lay Down Area**



Date: 8/12/2013

*Planning Survey Requirements Triggered by Land Cover Types and Habitat Elements on the project site* in the HCP's Project Planning Survey Report template (Refer to Table 1).

Site visits were conducted on May 2 and August 12, 2013. The surveys were conducted in accordance with the California Department of Fish and Wildlife's (CDFW's) *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW, 2009) and the HCP/NCCP's guidance for presence/absence surveys as outlined in the Project Planning Survey Report template. The timing of the surveys was designed to correspond to the blooming period for the target species. The surveys consisted of walking parallel transects within the study area to determine habitat suitability for the target plant species and to determine presence/absence of target species. Habitat types and plant species observed were recorded. Representative photographs were taken during the survey, and are provided at the end of this report. During the transect surveys, surveyors also watched for Swainson's hawk, suitable raptor nesting habitat, burrowing owls, burrowing owl sign (e.g., whitewash, feathers, or prey remains), or potential nest burrows.

### 3.0 RESULTS

The review of CNDDDB records and the HCP/NCCP species lists show that there is potential for 11 plants to occur within the project area (Table 1).

**Table 1: Special-status Plant Species with Potential to Occur in the Study Area**

Species	Status	Habitat requirements/blooming season	Potential for Occurrence
Alkali milkvetch, <i>Astragalus tener</i> ssp. <i>tener</i>	CRPR 1B.2, HCP-N	Alkaline soils in Playas, valley and foothill grassland (adobe clay soils), and vernal pools. Blooms: March through June	<b>None:</b> The grasslands in the study area may provide marginally suitable habitat for this species; however, past agricultural practices and the ubiquitous nature of non-native vegetation preclude the potential for this species to occur.
Big tarplant, <i>Blepharizonia plumosa</i>	CRPR 1B.1, HCP-C	Valley and foothill grassland. Blooms: July through October	<b>None:</b> The grasslands in the study area may provide marginally suitable habitat for this species; however, past agricultural practices and the ubiquitous nature of non-native vegetation preclude the potential for this species to occur.
Brewer's dwarf flax, <i>Hesperolinon breweri</i>	CRPR 1B.2, HCP-C	Usually serpentine soils in chaparral, cismontane woodland, and valley and foothill grasslands. Blooms: May through July	<b>None:</b> The grasslands in the study area may provide marginally suitable habitat for this species; however, soils in the study area are not

			comprised of serpentinite and the high degree of past agricultural disturbance likely precludes the potential for this species to occur.
Contra Costa goldfields, <i>Lasthenia conjugens</i>	FE, CRPR 1B.2, HCP-N	Valley and foothill grassland, vernal pools, cismontane woodland, extirpated from most of its range; extremely endangered. Blooms: March through June	<b>None:</b> The grasslands in the study area may provide marginally suitable habitat for this species; however, past agricultural practices and the ubiquitous nature of non-native vegetation preclude the potential for this species to occur. Additionally, this species' range is very restricted and it is not known to currently occur in the vicinity of the study area.
Diamond-petaled California poppy, <i>Eschscholzia rhombipetala</i>	CRPR 1B.1, HCP-N	Alkaline and clay soils in valley and foothill grassland Blooms: March through April	<b>None:</b> The grasslands in the study area may provide marginally suitable habitat for this species; however, past agricultural practices and the ubiquitous nature of non-native vegetation preclude the potential for this species to occur.
Hoover's cryptantha, <i>Cryptantha hooveri</i>	CRPR 1A	Valley and foothill grassland. Blooms: April through May	<b>None:</b> The grasslands in the study area may provide marginally suitable habitat for this species; however, this species is presumed extinct throughout its range. Additionally, past agricultural practices and the ubiquitous nature of non-native vegetation preclude the potential for this species to occur.
Large-flowered fiddleneck, <i>Amsinckia grandiflora</i>	FE, SE, CRPR 1B.1, HCP-N	Cismontane woodland, valley and foothill grassland. Blooms: April through May	<b>None:</b> The grasslands in the study area may provide marginally suitable habitat for this species; however, past agricultural practices and the ubiquitous nature of non-native vegetation preclude the potential for this species to occur.
Mt. Diablo buckwheat, <i>Eriogonum truncatum</i>	CRPR 1B.1, HCP-N	Chaparral, coastal scrub, valley and foothill grassland.	<b>None:</b> The grasslands in the study area may provide marginally suitable habitat for

		Blooms: April through September	this species; however, past agricultural practices and the ubiquitous nature of non-native vegetation preclude the potential for this species to occur.
Mt. Diablo fairy lantern, <i>Calochortus pulchellus</i>	CRPR 1B.2, HCP-C	Chaparral, cismontane woodland, riparian woodland, valley and foothill grasslands. Blooms: April through June	<b>None:</b> The grasslands in the study area may provide marginally suitable habitat for this species; however, past agricultural practices and the ubiquitous nature of non-native vegetation preclude the potential for this species to occur.
Round-leaved filaree, <i>California macrophylla</i>	CRPR 1B.1, HCP-C	Cismontane woodland, valley and foothill grassland. Blooms: March through May	<b>None:</b> The grasslands in the study area may provide marginally suitable habitat for this species; however, past agricultural practices and the ubiquitous nature of non-native vegetation preclude the potential for this species to occur.
Showy madia, <i>Madia radiata</i>	CRPR 1B.1, HCP-C	Cismontane woodland, valley and foothill grassland. Blooms: March through May	<b>None:</b> The grasslands in the study area may provide marginally suitable habitat for this species; however, past agricultural practices and the ubiquitous nature of non-native vegetation preclude the potential for this species to occur.

**F**=Federal; **C**=California **T**=Threatened; **E**=Endangered; **R**=Rare

**CRPR**=California Rare Plant Rank 1-4

**HCP-C**=East Contra Costa County HCP covered; **HCP-N**=East Contra Costa County HCP no take

Habitat within the study area consists of non-native annual grassland surrounded by roadways and other urban development. During the May survey, the conditions at the site were dry, possibly due to lack of rainfall early in the spring, and most of the vegetation was in an advanced stage of senescence, as is usual later in the season. Dominant species included wild oat (*Avena fatua*), Italian rye grass (*Festuca perenne*), winter vetch (*Vicia villosa*), spring vetch (*V. sativa*), black mustard (*Brassica nigra*), short pod mustard (*Hirschfeldia incana*), wild radish (*Raphanus sativa*), and Italian thistle (*Carduus pycnocephalus*). Several species of native forbs occurred in scattered patches in the southern half of the study area and included purple owl's clover (*Castilleja exserta*) and common gum plant (*Grindelia camporum*). No tree species occurred within the study area.

None of the target special-status plant species outlined in Table 1 were observed during the surveys. The

surveys were conducted within the bloom period for all target species.

No suitable nesting habitat for Swainson's hawk occurs within 1,000 feet of the study area and no individuals of this species were observed at the time of the surveys. The nearest known occurrence for this species occurs approximately 2,000 feet to the east/northeast of the study area. While Swainson's hawk have been known to nest in this location in the past, red-tailed hawks nested there in 2012. The study area may provide suitable foraging habitat for Swainson's hawk; however, there is sufficient suitable foraging habitat in the vicinity that utilization of this approximately 8-acre parcel would not constitute a significant impact to foraging habitat for this species.

No burrowing owls, burrowing owl sign or potentially suitable nest burrows were observed in the study area during the survey. One burrowing owl was observed in the UPRR ROW to the north and west of the study area (well outside the study area boundaries). This location had been mapped during the burrowing owl relocation that occurred for this project in the fall of 2012 and spring of 2013 where it was identified as BUOW nest #2. The only small mammal burrows observed in the study area included pocket gopher burrows which are far too small to be suitable for burrowing owl occupation. Additionally, vegetation in the study area was generally 2 to 3 feet tall and very dense, which would deter burrowing owl occupation.

#### 4.0 DISCUSSION

None of the target plant species were observed during the surveys. Though the grassland in the study area may loosely correspond to valley and foothill grassland habitat which presents potentially suitable habitat for many of these species, past agricultural practices have resulted in nearly annual disturbance to this area and extensive invasion of the grassland by non-native grasses and forbs. It is highly unlikely that any of the target special-status plant species remain in the seedbank in this area.

Due to the lack of suitable burrows, and the height and density of the vegetation in the study area, it is very unlikely that burrowing owls would occupy the study area (though they could potentially forage there).

Based on the results of the survey, no impacts on special-status plant species, Swainson's hawk, or burrowing owl are anticipated to occur as a result of project-related activities.

## Site Photos

### Photographs of the typical habitat within the study area



Study area, looking northwest from eastern boundary



Study area looking southwest from eastern boundary



Study area looking southeast from western boundary



Study area looking northeast from western boundary