

MITIGATION MONITORING AND REPORTING PROGRAM

San José-Santa Clara Regional Wastewater Facility Yard Piping and Road Improvements Project Addendum File No. PP19-063 February 2021



PREFACE

Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring and reporting program is to ensure compliance with the mitigation measures during project implementation.

The Initial Study/Addendum prepared for the proposed Yard Piping and Road Improvements Project (Project) concluded that the implementation of the Project could result in significant effects on the environment and mitigation measures were incorporated into the Project or are required as a condition of project approval. This Mitigation Monitoring and Reporting Program addresses those measures in terms of how and when they will be implemented.

This document does *not* discuss those subjects for which the Initial Study/Addendum concluded that the impacts from implementation of the Project would be less than significant.

The City of San José hereby agrees to fully implement the mitigation measures described below, which have been developed in conjunction with the preparation of an Initial Study/Addendum for the Project. The City understands that these mitigation measures, or substantially similar measures, will be adopted as conditions of approval to avoid or significantly reduce potential environmental impacts to less than significant levels.

The following abbreviations are used:

BAAQMD = Bay Area Air Quality Management District
CCR = California Code of Regulations
CDFW = California Department of Fish and Wildlife
CEQA = California Environmental Quality Act
CFR = Code of Federal Regulations
CM = Construction Management Resources Team
DTSC = Department of Toxic Substance Control
ESD = Environmental Services Department
ET = Environmental Team Project Lead
HASP = Health and Safety Plan
HCP = Santa Clara Valley Habitat Conservation Plan

NAHC = Native American Heritage Commission
OSHA = Occupational Safety and Health Administration
PM = San José-Santa Clara Regional Wastewater Facility Capital Improvements Program - Project Manager
PBCE = Planning, Building and Code Enforcement
RMMP = Restoration Mitigation Monitoring Plan
RWQCB = Regional Water Quality Control Board
SCCDEH = Santa Clara County Department of Environmental Health
SVOCs = semi-volatile organic compounds
USACE = U.S. Army Corps of Engineers
USFWS = U.S. Fish and Wildlife Service
VOCs = volatile organic compounds

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
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AIR QUALITY					
Impact a) The Project could conflict with or obstruct implementation of the applicable air quality plan.					
Impact b) The Project could result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard.					
Mitigation Measure AQ-1: Bay Area Air Quality Management District (BAAQMD) Basic Control Measures The Project proponent shall implement the following measures: <ul style="list-style-type: none"> All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. All haul trucks transporting soil, sand, or other loose material off-site shall be covered. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. All vehicle speeds on unpaved roads shall be limited to 15 mph. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. 	Environmental Team (ET) shall ensure that contract documents include a requirement for BAAQMD Basic Construction Measures.	Design	ET	Review contract documents	Prior to contract approval
	<ul style="list-style-type: none"> Include discussion of this mitigation measure in contractor environmental training sessions. Post signage. Maintain site inspection checklists. Review contractor's equipment tune-up and emissions logs. Notify San José-Santa Clara Regional Wastewater Facility 	Construction	CM	Monitor to ensure that contractor implements measures in contract documents. CM notifies PM and ET of non-compliance and ensures corrective action.	Construction

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<ul style="list-style-type: none"> Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator. Post a publicly visible sign with the telephone number and person to contact at the City regarding dust complaints. This person shall respond and take corrective action within 48 hours. 	Capital Improvements Program - Project Manager (PM) of non-compliance and ensure corrective action				
BIOLOGICAL RESOURCES					
Impact a) The Project could have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.					
Mitigation Measure BIO-1: Reduce Impacts to Tarplant For purposes of reducing direct impacts to Congdon's tarplant, the Project proponent shall: <ul style="list-style-type: none"> Conduct surveys for Congdon's tarplant May 1st through October 31st (inclusive) prior to commencement of ground disturbing activities, including vegetation removal, excavation and fill activities, and/or implementation of burrowing owl 	ESD shall prepare the following: <ul style="list-style-type: none"> Signed electronic copies (pdf) of the plant survey; Signed documentation of seed collection and post-construction seeding results if required; 	Prior to, during, and after ground-disturbing activities associated with pipeline construction located in the grassland areas	ESD and Director of Planning, Building and Code Enforcement (PBCE) or Director's Designee	Prepare and review documentation and submit noncompliance report	Prior to, during, and after ground-disturbing activities

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<p>mitigation measures. This shall be conducted by a qualified biologist. The survey will follow the CDFW <i>Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities</i>.</p> <ul style="list-style-type: none"> Avoid damaging or removing individuals of Congdon’s tarplant while conducting the above activities whenever possible. Prior to construction, all workers shall take part in a Worker Environmental Awareness Training program. Work crews shall be trained in standard procedures for identifying and avoiding impacts to all special-status species with the potential to occur in the work area. The awareness program shall be conducted prior to the start of construction and thereafter as required for new construction personnel. A sign-in sheet for crew receiving the training shall be maintained on file by the Project proponent. <p>If individuals of Congdon’s tarplant cannot be avoided through the provisions listed above, the permanent loss of Congdon’s tarplants shall be mitigated at a minimum mitigation-to-impact ratio of 1:1. To address permanent loss of Congdon’s tarplant individuals, the following measures shall be implemented:</p> <ul style="list-style-type: none"> During July (inclusive), prior to the initiation of construction activities, the Project proponent shall provide a qualified biologist to begin tracking 	<ul style="list-style-type: none"> Signed documentation of mowing and annual weed control activities; and If reseeding is required, annual monitoring reports documenting success of the planted population. Signed documentation of appropriate trail signage. A report of any instance of noncompliance with these measures. ESD shall submit report, if applicable to Director of PBCE Department or Director’s Designee. 	<p>south and west of the operational area</p>			

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<p>Congdon’s tarplant within the area to determine when plants have set seeds. Once seeds have set, seeds from individuals of Congdon’s tarplant from within the area shall be collected during August or September(inclusive) under the direction of a qualified biologist, prior to initiation of activities that will impact individuals, and immediately sown at reseeding location(s) to mimic the species’ natural seasonal cycle of dispersal and germination prior to the its blooming period, which can begin as early as May (inclusive).</p> <ul style="list-style-type: none"> Seed of Congdon’s tarplant shall be applied within a proposed replacement area, the location of which shall be determined in consultation with CDFW. Seed of Congdon’s tarplant may likely be applied either alone or as a component of the revegetation mix within the impact area for any temporary impacts and within a proposed replacement area for permanent impacts. Reseeding should occur prior to the start of the rainy season (October 1st to April 31st, inclusive). Location of seed planting will be recorded using a submeter accuracy GPS unit (e.g., Trimble GPS) to enable finding the relocation plantings for monitoring. Areas seeded with Congdon’s tarplant shall be monitored during the first 5 years following reseeding. Monitoring shall be conducted during the peak blooming period (July 1st through November 30th, inclusive). The planted population shall be compared to a known reference population each time monitoring 					

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<p>is conducted to accurately verify the degree of success of the planted population.</p> <ul style="list-style-type: none"> • During the first year of monitoring, revegetation shall be considered successful if the species in 70 percent of the reseeded area are occurring at densities comparable to the reference population. If unsuccessful, seed shall be collected and sown in the unsuccessful areas prior to the rainy season that year. If reseeded is necessary at any point during the monitoring period, the monitoring period shall reset (extended by five years) for the affected area. • During each subsequent year of monitoring, revegetation will be considered successful if the species is found to be occurring in 80 percent of the reseeded area at densities comparable to the reference population. If revegetation is unsuccessful for two consecutive years, seed will be collected and sown in the unsuccessful areas prior to the rainy season that year. • During the final two years of monitoring, if seeding of previously unoccupied habitat is successful (plants occur in 80 percent of the reseeded area at densities comparable to the reference population), then the mitigation will be deemed successful and no additional monitoring will be required. If unsuccessful, the area will be deemed unsuitable habitat. In this case, revegetation of additional areas, determined in 					

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<p>consultation with CDFW will occur, and an additional two years of monitoring will be conducted.</p> <ul style="list-style-type: none"> Conditions in areas occupied by Congdon’s tarplant shall change over time, and conflicts between measures to reduce impacts to the tarplant and burrowing owl habitat management strategies (e.g., mowing) may arise. In response to changing conditions, these measures may require refinement by a qualified biologist in coordination with CDFW to ensure adequate protection of both species. <p>If, after the Project is completed, Congdon’s tarplant occurs within the footprint of the Project and cannot be avoided during operations and maintenance activities, the Project proponent shall:</p> <ul style="list-style-type: none"> Conduct mowing and trimming of vegetation in areas occupied by Congdon’s tarplant prior to flowering before November 15th to May 1st (inclusive) (to avoid the blooming season [May 1st to November 15th (inclusive)]) or after seeds have been set (November 16th). Mow no lower than 6 inches in areas with Congdon’s tarplant in order to minimize removal of tarplant foliage prior to flowering. 					
<p>Mitigation Measure BIO-2d: Raptor and Migratory Bird Nest Measures.</p>	<p>If possible, PM shall schedule construction between September 1st and January 31st (inclusive).</p>	<p>Prior to construction</p>	<p>ET</p>	<p>None</p>	<p>Pre-construction</p>

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<ul style="list-style-type: none"> If possible, construction shall be scheduled between September 1st and January 31st (inclusive) to avoid the nesting season. If Project construction is scheduled during breeding bird season (February 1st–August 31st, inclusive), the Project proponent or its contractor shall retain a qualified wildlife biologist to conduct a survey for nesting raptors and migratory bird nests within 7 days of the start of construction or after any construction breaks of 14 days or more, within 7 days prior to the resumption of construction. Surveys shall be performed for the Project area and for surrounding suitable habitat. California Ridgway’s rail and California black rail pre-construction surveys shall be conducted in salt marsh, salt panne, tidal marsh, and freshwater wetlands at any time of the year. If an active nest is discovered, a no-disturbance buffer zone around the nest tree (or, for ground-nesting species, or nests identified on Facility buildings, the nest itself) shall be established. The no disturbance zone shall be marked with flagging or fencing that is easily identified and avoided by the construction crew, and shall not affect the nesting birds. In general, the minimum buffer zone widths shall be as follows: 100 feet (radius) for non-raptor species and 300 feet (radius) for raptor species other than eagles; however, 	ESD or its contractor shall contract a qualified biologist to conduct surveys for nesting raptors and migratory birds within 7 days of start of project construction or within 7 days of start of construction after any construction breaks of 14 days or more (if construction commences between February 1st and August 31st, inclusive). If active nests are located during survey, establish buffer zones and coordinate with USFWS/CDFW if necessary.	Within 7 days prior to construction	Qualified biologist, in coordination with CDFW/USFWS, if necessary	Survey reports	Pre-construction
	ET or biological monitor shall monitor to ensure that contractor implements measures in contract documents regarding buffer zones and avoidance measures established by biologist and/or USFWS/CDFW: <ul style="list-style-type: none"> Include discussion of this mitigation measure in environmental training sessions. Maintain site inspection logs. 	Construction	ET or biological monitor	Monitor implementation	Construction

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<p>the buffer zone widths may be adjusted if an obstruction, such as a building, is within line-of-sight between the nest and construction.</p> <ul style="list-style-type: none"> • Buffer zone widths and other avoidance measures may be modified based on consultation with CDFW and the USFWS. Buffer zones shall remain in place as long as the nest is active or young remain in the area and are dependent on the nest. <p>If eagles or rails are detected during surveys, the Project proponent shall coordinate with USFWS staff to identify the appropriate avoidance measures prior to start of construction, as needed. The Project proponent shall be responsible to ensure that USFWS and/or CDFW protocols and requirements are implemented prior to the start of construction.</p> <p>Construction activities that are scheduled to begin outside the breeding season (September 1st through January 31st, inclusive) can proceed without surveys. If possible, all necessary tree and vegetation removal shall be conducted before the start of breeding bird season to minimize the opportunity for birds to nest at the Project site and conflict with Project construction activities.</p>	<ul style="list-style-type: none"> • Notify PM of non-compliance and ensure corrective action. 				
	ET or biological monitor shall submit reports, if applicable, to USFWS/CDFW per consultation requirements.	Construction	ET or biological monitor	Submit Reports	Construction
	Survey reports and any final compliance report, if applicable shall be submitted to ET; ET shall submit noncompliance report to PM and Director of PBCE or Director Designee.	Construction	ET and Director of PBCE or Director's Designee	Compliance Report	Construction, Post-Construction

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<p>Mitigation Measure BIO-2e: Western Burrowing Owl Measures.</p> <p>To avoid or minimize direct impacts of Project activities on western burrowing owls, the Project proponent shall ensure the following procedures are implemented in all SCVHP-modeled burrowing owl habitat consistent with the SCVHP. This survey methodology is consistent with accepted survey protocols for this species.</p> <p>1. Habitat Survey</p> <p>a) Western burrowing owl habitat surveys shall be required in the Project area in all SCVHP modeled occupied habitat. Surveys are not required in sites that are mapped as potential burrowing owl nesting or only overwintering habitat. Modeled habitat types may change throughout the permit term based on the best available scientific data. Habitat surveys are required in both breeding and non-breeding seasons.</p> <p>b) Qualified biologist(s) shall conduct a pedestrian survey of the Project area and accessible areas within 250-feet of the Project area. Pedestrian survey transects shall be spaced to allow 100 percent visual coverage of the ground surface. The</p>	ESD shall contract a qualified biologist to conduct habitat surveys in all SCVHP modeled occupied habitat areas.	Pre-construction	ET, Habitat Agency, (CDFW)	Survey reports	Pre-construction
	If suitable habitat is identified during the habitat survey, and if the Project does not fully avoid impacts to the suitable habitat, ESD shall retain a qualified biologist to conduct preconstruction surveys.	Pre-construction	ESD	Survey reports	Pre-construction
	ESD shall employ avoidance measures and contract a qualified biologist to monitor to ensure that contractor implements measures in contract documents regarding buffer zones and avoidance measures established by biologist and/or USFWS.	Pre-construction/ Construction	ET/CM/biologist	Monitor implementation	Pre-construction/ Construction

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<p>distance between transect center lines shall be no more than 50 feet and can be reduced to account for differences in terrain, vegetation density, and ground surface visibility. Poor weather may affect the biologist's ability to detect burrowing owls; therefore, the biologist shall avoid conducting surveys when wind speed is greater than 20 kilometers per hour and there is precipitation or dense fog. The biologist shall map areas with burrows or burrow complexes that could support burrowing owls and all burrows that may be occupied (as indicated by tracks, feathers, egg shell fragments, pellets, prey remains, or excrement).</p> <p>c) To avoid impacts to owls from surveyors, owls and/or occupied burrows shall be avoided by a minimum of 150 feet wherever practical to avoid flushing occupied burrows. Disturbance to occupied burrows shall be avoided during all seasons.</p> <p>d) If suitable habitat is identified during the habitat survey, and if the Project does not fully avoid impacts to the suitable habitat, preconstruction surveys shall be required. Suitable habitat is fully avoided if the project footprint does not impinge on a 250-foot buffer around the suitable burrow.</p> <p>2. Preconstruction Surveys</p> <p>a) A qualified biologist shall conduct preconstruction surveys in all suitable habitat identified in the</p>	<p>ET or a contractor shall retain a qualified biologist to conduct an environmental awareness program to train work crews about avoidance procedures, buffer zones, and protocols in the event that a burrowing owl flies into an active construction zone.</p>	<p>Pre-construction</p>	<p>ET</p>	<p>Environmental Awareness Program</p>	<p>Pre-construction</p>

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<p>habitat surveys within 250 feet of construction activity, between 14 and 4 days prior to initiating ground disturbance related to Project construction activities. The 250-foot buffer zone shall be surveyed to identify burrows and owls outside of the Project area which may be impacted by factors such as noise and vibration (heavy equipment) during project construction. As burrowing owls may recolonize a site after only a few days, time lapses between Project activities shall require subsequent take avoidance surveys including but not limited to a final survey conducted no more than 2 days prior to ground disturbance to ensure absence. A minimum of two surveys shall be conducted (if owls are detected on the first survey, a second survey is not needed).</p> <p>b) The preconstruction survey shall be a minimum of 3 hours, beginning 1 hour before sunrise and continuing until 2 hours after sunrise (3 hours total) or beginning 2 hours before sunset and continuing until 1 hour after sunset. Additional time may be required for large project sites.</p> <p>3. Avoidance Measures</p> <p>The Project proponent shall employ avoidance measures described below to avoid direct take of individual burrowing owls during Project construction.</p> <p><i>Breeding Season Avoidance Measures - February 1 to August 31 (inclusive)</i></p>					

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<p>a) If preconstruction surveys identify evidence of Western burrowing owls within 250 feet of the Project area during the breeding season, the Project proponent shall avoid all nest sites that could be disturbed by Project construction activities during the remainder of the breeding season or while the nest is occupied by adults or young (occupation includes individuals or family groups foraging on or near the site following fledging). Avoidance shall include establishment of a 250-foot no-disturbance buffer zone around active nest sites by a qualified biologist.</p> <p>b) If active nests cannot be avoided, construction may occur within 250 feet of active nest sites if 1) the nest is not disturbed, and 2) the Project proponent develops and implements an Avoidance, Minimization, and Monitoring Plan, subject to approval by CDFW. The plan shall incorporate the following criteria:</p> <p>i. A qualified biologist shall monitor the owls for at least 3 days prior to Project construction to determine baseline nesting and foraging behavior (i.e., behavior without construction). The qualified biologist shall monitor the owls during construction and find no change in owl nesting and foraging behavior in response to construction activities.</p> <p>ii. If there is any change in owl nesting and foraging behavior as a result of Project</p>					

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<p>construction activities, these activities shall cease within the 250-foot buffer. Construction shall not resume within the 250-foot buffer until the adult owls and juveniles from the occupied burrows have moved out of the project site.</p> <p>iii. If monitoring indicates that the nest is abandoned prior to the end of nesting season and the burrow is no longer in use by owls, the no-disturbance buffer zone may be removed. The biologist shall excavate the burrow following the protocol described in the SCVHP and CDFW (CDFG, 2012).</p> <p><i>Non-Breeding Season Avoidance Measures – September 1st to January 31st, (inclusive)</i></p> <p>a) If preconstruction surveys identify evidence of Western burrowing owls within 250 feet of the Project area during the non-breeding season (September 1st to January 31st, inclusive), the Project proponent and qualified biologist shall identify a no-disturbance buffer of up to 250 feet around occupied overwintering burrows, to minimize construction impacts to burrowing owls located outside of the Project work envelope, as determined by a qualified biologist.</p> <p>b) If occupied burrows cannot be avoided, construction may occur within 250 feet of overwintering burrows sites if:</p>					

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<p>i. A qualified biologist monitors the owls for at least 3 days prior to construction to determine baseline foraging behavior (i.e., behavior without construction).</p> <p>ii. The same qualified biologist monitors the owls during construction and finds no change in owl foraging behavior in response to construction activities.</p> <p>iii. If there is any change in owl nesting and foraging behavior as a result of construction activities, these activities shall cease within the 250-foot buffer.</p> <p>iv. If the owls are gone for at least one week, the Project proponent may request approval from the HCP Habitat Agency for qualified biologist to excavate usable burrows to prevent owls from re-occupying the site. After all usable burrows are excavated, the no-disturbance buffer zone shall be removed and construction may continue. Monitoring must continue as described above for the non-breeding season as long as the burrow remains active.</p> <p>4. Construction Monitoring and Environmental Training</p> <p>During construction, the no-disturbance buffer zones shall be established and maintained where applicable and based on the Project Avoidance, Minimization, and Monitoring Plan. A qualified biologist shall monitor the site consistent</p>					

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<p>with the requirements described in the Avoidance Measures, described above, to ensure that buffers are enforced and owls are not disturbed. The qualified biological monitor shall prepare and perform an environmental training for all Project personnel on the avoidance procedures, buffer zones, and protocols in the event that a burrowing owl flies into an active construction zone.</p> <p>5. Passive Relocation</p> <p>If avoidance measures described cannot be implemented with the Project, Passive Relocation shall be implemented according to the protocol described in the SCVHP and in coordination with, and approval by CDFW.</p>					
Implement Mitigation Measure BIO-4a: Wetlands Avoidance Measures , described below under Biological Resources, Impact c).					
Impact c) The Project could have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.					
<p>Mitigation Measure BIO-4a: Wetlands Avoidance Measures</p> <p>Access roads, work areas, and infrastructure shall be sited to avoid and minimize direct and indirect impacts to jurisdictional features. Prior to the beginning of any construction-related activities, the following measures shall be applied to protect potential jurisdictional features:</p> <p>a) A protective barrier (such as silt fencing) shall be erected around water features adjacent to the Project at the "top of bank" or at the feature boundary to isolate</p>	ET shall ensure that wetlands are clearly designated on site plans and requirements for minimizing impacts to wetlands are included in contract documents.	Design	ET	Review contract	Design
	Install construction fencing around designated wetlands according to delineation created by qualified biologist, and ensure that contractor erects	Construction	CM/ET	Fencing and signage	Construction

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them from Project activities and reduce the potential for incidental fill, erosion, or other disturbance;	signage for protection of environmentally sensitive areas				
b) Signage shall be installed on the fencing to identify sensitive habitat areas and restrict construction activities;	Monitor to ensure that contractor implements measures in contract documents:	Construction	CM/ET	Monitor implementation	Construction
c) No equipment mobilization, grading, clearing, or storage of equipment or machinery, or similar activity shall occur at the Project site until a representative of the City has inspected and approved the protection fencing; and	<ul style="list-style-type: none"> • Include in contractor environmental training • Maintain site inspection logs • Notify PM of non-compliance and ensure corrective action 				
d) The Project proponent shall ensure that the temporary fencing is continuously maintained until the Project is completed.	CM shall submit final compliance reporting documentation, if applicable	Construction/Post-Construction	ET/CM	Compliance Report	Construction/Post-Construction
e) Drainage from all proposed facilities where chemical spills could occur during Project operation shall be directed away from sensitive resources and/or include other measures to minimize potential for release of potential pollutants to the environment.					
f) Prior to construction, all workers shall take part in a Worker Environmental Awareness Training program. Work crews shall be trained in standard procedures for identifying and avoiding impacts to any sensitive habitats and special-status species with the potential to occur in the work area. The awareness program shall be conducted prior to the start of construction and thereafter as required for new construction personnel. A sign-in sheet for crew receiving the training shall be maintained on file by the Project proponent.					

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<p>Mitigation Measure BIO-4b: Regulatory Approval and Wetlands Restoration.</p> <p>If it is determined during the design phase that impacts on wetland habitat cannot be avoided, the Project proponent shall obtain permits and approvals from USACE, RWQCB, and/or CDFW, as applicable. In order to ensure that the Project results in no net loss of wetland habitat functions and values, the Project proponent shall compensate for the loss of wetland resources through on-site restoration/creation, off-site protection and enhancement of wetland habitat, and/or purchase of mitigation credits consistent with the terms and conditions of permits and approvals from the resource agencies (USACE, RWQCB, and CDFW, as applicable). On-site or-off-site habitat restoration/creation and/or purchase of mitigation credits consistent with the terms and conditions of the resource agency permits shall be determined in consultation with the resource agencies, as applicable. The Project proponent shall prepare a mitigation plan, which shall include monitoring applicable requirements and success criteria.</p>	<p>If wetlands cannot be avoided, ET shall retain a qualified biologist or permitting specialist to assist with preparation of resource agency permit applications to USACE, RWQCB, and CDFW. This may include preparation of a Restoration Mitigation Monitoring Plan (RMMP).</p>	<p>Design (and at least one year prior to construction)</p>	<p>ET</p>	<p>Restoration Mitigation Monitoring Plan</p>	<p>Design (and at least one year prior to construction)</p>
	<p>ET shall ensure that requirements for compliance with resource agency permits are included in contract documents (specifications to be determined). This may include site restoration according to RMMP.</p>	<p>Design</p>	<p>ET</p>	<p>Review contract</p>	<p>Design</p>
	<p>CM, in conjunction with qualified biologist, shall monitor to ensure that contractor implements measures in contract documents regarding permit requirements:</p> <ul style="list-style-type: none"> • Include in environmental training • Maintain site inspection logs • Notify PM of non-compliance and ensure corrective action 	<p>Construction</p>	<p>CM/biologist</p>	<p>Monitor implementation</p>	<p>Construction</p>

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
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	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
	ET, in conjunction with a qualified biologist, shall submit reports, as applicable, to resource agencies per permit requirements.	Post-construction	ET/biologist	Submit Reports	Post-construction
	ET, in conjunction with a qualified biologist, shall perform post-construction compliance monitoring and corrective actions, as needed.	Post-construction/ restoration	ET/biologist	Monitor restoration	Post-construction/ restoration
	ET, in conjunction with a qualified biologist, shall submit final compliance report to resource agencies, if applicable	Post-restoration monitoring period	ET/biologist	Compliance Report	Post-restoration monitoring period
Impact e) The Project could conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.					
Mitigation Measure BIO-5a: Avoid or Compensate for Removal of Protected Trees. Protected trees to be removed shall be replaced on-site or off-site at the accepted ratios or through payment of an Off-Site Tree Replacement Fee, in accordance to the City Council-approved Fee Resolution, to compensate for the loss of the trees. The Project proponent and/or contractor shall retain a certified arborist to survey trees in the proposed project site and identify and evaluate Protected trees that will be removed. Protected trees that are lost shall be replaced according to tree replacement ratios set by the Plant Master Plan EIR under Table 4.7-10. Tree replacement amounts shall be subject to the City's Arborist and/or PBCE, who would determine the final mitigation for impacts to protected trees. Replacement trees shall be	ET, PM, and/or contractor shall retain a certified arborist to survey trees in the proposed project site and identify and evaluate Protected trees that will be removed.	Pre-construction	ET	Survey Reports	Pre-construction
	The City's Arborist and/or PBCE shall determine tree replacement amounts and final mitigation for impacts to protected trees.	Post-construction/ restoration	Director of PCBE or Director's Designee	Submit Reports	Post-construction/ restoration
	The City Arborist shall determine suitable locations for replacement trees to be planted. Once PCBE has approved the	Post-construction/ restoration	Director of PCBE or Director's Designee	Submit reports, Plant trees	Post-construction/ restoration

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planted in a suitable location on Facility property or on other City property, to be identified by the City Arborist and approved by the PBCE.	location, replacement trees shall be planted.				
<p>Mitigation Measure BIO-5b: Minimize Construction Effects on Protected Trees to be Retained.</p> <p>ET/PM shall implement the following tree-protection measures prior to and during project construction.</p> <ul style="list-style-type: none"> • Retain a certified arborist to oversee protection of native trees to be retained on the project site. • Require that any tree or root pruning occurring for construction is first approved by the certified arborist. • Require that the certified arborist evaluate injuries to retained trees as soon as possible for appropriate treatment. 	ET/PM shall retain a certified arborist to implement tree-protection measures.	Pre-construction/ Construction	ET/PM	Supervise protection of trees	Pre-construction/ Construction
CULTURAL RESOURCES					
Impact b) The Project could cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5.					
<p>Mitigation Measure CUL-3a: Inadvertent Discovery of Archaeological Resources.</p> <p>If prehistoric or historic-era archaeological resources are encountered by construction personnel during Project implementation, all construction activities within 100 feet shall halt and the contractor shall notify the Project proponent personnel and the Director of Planning, Building and Code Enforcement (PBCE) or Director’s Designee. Prehistoric archaeological materials might include obsidian and chert flaked-stone tools (e.g., projectile points, knives,</p>	ET/PM shall ensure that measures related to archaeological discoveries are included in contract documents.	Design	ET/PM	Review Contract	Design
	ET/CM shall ensure that all personnel complete environmental training prior to beginning work. Monitor to ensure that the contractors implement measures in contract documents.	Construction	ET/CM	Monitor implementation	Construction

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<p>scrapers) or toolmaking debris; culturally darkened soil (“midden”) containing heat-affected rocks, artifacts, or shellfish remains; stone milling equipment (e.g., mortars, pestles, hand stones, or milling slabs); and battered stone tools, such as hammer stones and pitted stones. Historic-era materials might include stone, concrete, or adobe footings and walls; filled wells or privies; and deposits of metal, glass, and/or ceramic refuse.</p> <p>The Project proponent or its contractor shall retain a Secretary of the Interior-qualified archaeologist to inspect the findings within 24 hours of discovery. If it is determined that the Project could damage a historical resource as defined by CEQA (CEQA Guidelines §15064.5), construction shall cease in an area determined by the archaeologist until a mitigation plan has been prepared, approved by the Director of the PBCE or Director’s Designee, and implemented to the satisfaction of the archaeologist (and Native American representative if the resource is prehistoric, who would be identified by the Native American Heritage Commission [NAHC]). If the Native American representative identifies the find as a tribal resource, the Native American representative shall make recommendations to the Project proponent for the appropriate measures to treat the tribal cultural resource which will be implemented in accordance with Section 15064.5 of the CEQA Guidelines. For archaeological resources, the archaeologist, in consultation with the Director of PBCE or Director’s Designee and the City’s Historic Preservation Officer, shall determine when construction can resume.</p>	<p>A qualified archeologist shall evaluate the potential discovery and advise the PM as to the significance of the discovery. If warranted, proceed with measures that may include the following:</p> <ul style="list-style-type: none"> a. On-site preservation of resource; b. Archaeological monitoring program with prior review/approval of PM; or c. Archaeological testing program with prior review/approval of PM. 	Construction	Director of PBCE or Director’s Designee, and City’s Historic Preservation Officer	Evaluate Discovery	Construction
	<p>A qualified archeologist shall prepare a Final Archaeological Resources Report if warranted. Submit to ESD and Director of PBCE or Director’s Designee for review and approval.</p>	Construction	ET and Director of PBCE or Director’s Designee	Final Archeological Resources Report	Construction

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<p>The preferred mitigation shall be preservation in place. If preservation in place is not physically or financially feasible, mitigation shall be data recovery through excavation. If preservation in place is selected as mitigation, the mitigation shall be accomplished through one of the four following means: (1) modifying the construction plan to avoid the resource; (2) incorporating the resource within open space; (3) capping and covering the resource before building appropriate facilities on the resource site; or (4) deeding the resource site into a permanent conservation easement. If preservation in place is not feasible, a qualified archaeologist shall prepare and implement a detailed treatment plan to the satisfaction of the Director of the PBCE or Director’s Designee to recover the scientifically consequential information from the resource prior to any excavation at the resource site. Treatment for most of the resources that could be encountered shall consist of (but shall not necessarily be limited to) sample excavation, artifact collection, site documentation, and historical research, with the aim to target the recovery of important scientific data contained in the portion(s) of the significant resource to be impacted by the Project. The treatment plan shall include provisions for analysis of data in a regional context, reporting of results within a timely manner, curation of artifacts and data at an approved facility, and dissemination of reports to the Director of PBCE or Director’s Designee, the City’s Historic Preservation Officer, the Northwest Information Center (if applicable), local and state repositories, libraries, and interested professionals.</p>					

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Impact c) The Project could disturb human remains, including those interred outside of formal cemeteries.					

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<p>Mitigation Measure CUL-5: Inadvertent Discovery of Human Remains.</p> <p>If human remains are encountered by construction personnel during project implementation, all construction activities within 100 feet shall halt and the contractor shall notify the Director of PBCE or Director’s Designee. ET shall contact the Santa Clara County Coroner to determine whether or not the remains are Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner shall contact the NAHC within 24 hours. The NAHC would then identify the person or persons it believes to be the most likely descendant from the deceased Native American, who in turn would make recommendations to the Project proponent for the appropriate means of treating the human remains and any associated funerary objects which shall be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.</p>	ET/PM shall ensure that contract documents include measures related to discovery of human remains.	Design	ET/PM	Review contract	Design
	Include in environmental training. Monitor to ensure that the contractor implements measures in contract document including reporting human remains if encountered and suspending work in the vicinity.	Pre-construction/Construction	Director of PBCE or Director’s Designee /ET/CM	Environmental training / Monitor implementation	Construction
	PBCE, in conjunction with a qualified archeologist, shall confirm identification of human remains, if needed. If human remains are confirmed, perform required coordination and notifications.	Construction	Director of PBCE or Director’s Designee/Coroner/NAHC	Confirm identification	Construction
	A qualified archeologist shall monitor to ensure the appropriate disposition of human remains.	Construction	Director of PBCE or Director’s Designee	Monitor disposition	Construction
	A qualified archeologist shall submit final compliance report, if applicable.	Construction	Director of PBCE or Director’s Designee/NAHC	Compliance Report	Construction

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TRIBAL CULTURAL RESOURCES					
<p>The Project could cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:</p> <p>Impact a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k).</p> <p>Impact b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.</p>					
Implement Mitigation Measure CUL-3a: Inadvertent Discovery of Archaeological Resources and Mitigation Measure CUL-5: Inadvertent Discovery of Human Remains , described above under Cultural Resources.					
HAZARDS AND HAZARDOUS MATERIALS					
<p>Impact b) The Project could create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.</p> <p>Impact d) The Project could be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment.</p>					
<p>Mitigation Measure HAZ-1a: Pre-Construction Hazardous Materials Assessment.</p> <p>Prior to construction, the Project proponent or its contractor shall ensure that a limited soil and/or groundwater investigation is performed at proposed construction work</p>	ET or its PM shall ensure that a limited soil and/or groundwater investigation is performed at proposed construction work areas to characterize soil and groundwater quality.	Pre-construction	ET/PM	Site investigation report	Pre-construction

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<p>areas to characterize soil and groundwater quality. If the results reveal soil and/or groundwater contamination exist in excess of applicable regulatory screening levels (Environmental Screening Levels or California human health screening levels) for the proposed site use, the Project proponent shall contact the appropriate regulatory agency (the Santa Clara County Department of Environmental Health [SCCDEH], the Regional Water Quality Control Board [RWQCB], or Department of Toxic Substances Control [DTSC]) as appropriate. The Project proponent or its contractor shall complete subsequent site investigations and/or remedial activities required by the regulatory agency to ensure that residual impact, if any, shall not pose a continuing significant threat to groundwater resources, human health, or the environment.</p> <p>The results of the pre-construction hazardous materials assessment shall be incorporated into the Site Health and Safety Plan prepared in accordance with Mitigation Measure HAZ-1b, below, and the Soil and Groundwater Management Plan prepared in accordance with Mitigation Measure HAZ-1c, below, to determine whether: specific soil and groundwater management and disposal procedures for contaminated materials are required; excavated soils are suitable for reuse; and construction worker health and safety procedures for working with contaminated materials are required.</p>	<p>If the soil and/or groundwater contamination exist in excess of applicable regulatory screening levels, ET shall contact the appropriate regulatory agency, as appropriate.</p>	Pre-construction	ESD	Contact regulatory agencies	Pre-construction
	<p>PM/ CM shall complete subsequent site investigations and/or remedial activities required by the regulatory agency.</p>	Pre-construction	PM or CM	Site investigation report	Pre-construction
	<p>A copy of the pre-construction hazardous materials assessment shall be submitted to the Director of PBCE or Director's Designee.</p>	Pre-construction	ESD and Director of PBCE or Director's Designee	Submit pre-construction hazardous materials assessment to Director of PBCE or Director's Designee.	Pre-construction
	<p>Contractor shall incorporate the results of the pre-construction hazardous materials assessment into the Site Health and Safety Plan and the Soil and Groundwater Management Plan.</p>	Pre-construction	ET/PM/	Site Health and Safety Plan and the Soil and Groundwater Management Plan	Pre-construction

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<p>Mitigation Measure HAZ-1b: Health and Safety Plan.</p> <p>The Project proponent or its contractor shall retain a qualified environmental professional to prepare a site-specific Health and Safety Plan (HASP) in accordance with federal OSHA regulations (29 CFR 1910.120) and Cal/OSHA regulations (8 California Code of Regulations Title 8, Section 5192). Because anticipated contaminants vary depending upon the location of proposed improvements in the Project area and may vary over time, the HASP shall address site-specific worker health and safety issues during construction. The HASP shall include the following information:</p> <ul style="list-style-type: none"> • Results of sampling conducted in accordance with Mitigation Measure HAZ-1a. • All required measures to protect construction workers and the general public by including engineering controls, monitoring, and security measures to prevent unauthorized entry to the construction areas and to reduce hazards outside of the construction areas. If prescribed contaminant exposure levels are exceeded, personal protective equipment shall be required for workers in accordance with state and federal regulations. • Required worker health and safety provisions for all workers potentially exposed to contaminated materials, in accordance with state and federal worker safety regulations, and designated qualified individual 	Ensure that contract documents include preparation of a Health and Safety Plan and documentation of compliance in accordance with the mitigation measure.	Design	ET/PM	Review contract	Design
	CM shall review contractor's Health and Safety Plan.	Design/ Construction	CM	Review Health and Safety Plan	Design/ Construction
	CM shall monitor compliance by the contractor, report non-compliance or discovery of suspect hazardous materials to PM. Ensure corrective action, sampling, remediation and/or disposal as warranted. (Note contractor is solely responsible for health and safety of its employees).	Construction	CM	Monitor implementation	Construction
	A copy of the HASP shall be submitted to the Director of PBCE or Director's Designee.	Construction	ET and Director of PBCE or Director's Designee	Submit HASP to the Director of PBCE or Director's Designee	Construction

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<p>personnel responsible for implementation of the HASP.</p> <ul style="list-style-type: none"> The contractor shall have a site health and safety supervisor fully trained pursuant to hazardous materials regulations be present during excavation, trenching, or cut and fill operations to monitor for evidence of potential soil contamination, including soil staining, noxious odors, debris or buried storage containers. The site health and safety supervisor must be capable of evaluating whether hazardous materials encountered constitute an incidental release of a hazardous substance or an emergency spill. The site health and safety supervisor shall implement procedures to be followed in the event of an unanticipated hazardous materials release that may impact health and safety. These procedures shall be in accordance with hazardous waste operations and regulations and specifically include, but are not limited to: 1) immediately stopping work in the vicinity of the unknown hazardous materials release; 2) notifying SCCDEH, RWQCB, or DTSC; and 3) retaining a qualified environmental firm to perform sampling, remediation, and/or disposal. Documentation that HASP measures have been implemented during construction. Provision that submittal of the HASP to the Project proponent, or any review of the contractor's HASP by the Project proponent, shall not be construed as 					

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approval of the adequacy of the contractor as a health and safety professional, the contractor's HASP, or any safety measure taken in or near the construction site. The contractor shall be solely and fully responsible for compliance with all laws, rules, and regulations applicable to health and safety during the performance of the construction work.					
<p>Mitigation Measure HAZ-1c: Soil and Groundwater Management Plan.</p> <p>If hazardous materials or contaminated soil and groundwater above regulatory screening levels are identified under the pre-construction hazardous materials assessment, done in accordance with Mitigation Measure HAZ-1a, the Project proponent's Hazardous Material Specialist shall require the construction contractor to prepare and implement a Soil and Groundwater Management Plan that specifies the method for handling and disposal of contaminated soil and groundwater prior to construction.</p> <p>The Soil and Groundwater Management Plan shall establish the sampling and laboratory analysis program which may include the following: 1) analysis of subsurface soil samples within the Project site for total petroleum hydrocarbons (as gasoline, diesel, and waste oil), Title 22</p>	If hazardous materials or contaminated soil and groundwater above regulatory screening levels are identified under the pre-construction hazardous materials assessment, ESD's Hazardous Material Specialist shall require the contractor to prepare a Soil and Groundwater Management Plan.	Pre-Construction	ET/ESD's Hazardous Material Specialist	Soil and Groundwater Management Plan	Pre-construction
	A copy of the HASP shall be submitted to the Director of PBCE or Director's Designee.	Pre-construction	ET and Director of PBCE or Director's Designee	Submit Soil and Groundwater Management Plan to the Director of PBCE or Director's Designee	Pre-construction

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<p>metals, and volatile organic compounds (VOCs) or any other chemicals of concern to evaluate the potential presence of contamination; 2) groundwater samples if subsurface excavations are anticipated to require dewatering; and 3) additional analyses for VOCs and semi-volatile organic compounds (SVOCs) for groundwater samples collected at construction locations within 1,000 feet of adjacent landfills.</p> <p>The Soil and Groundwater Management Plan shall include all necessary procedures to ensure that excavated materials and fluids generated during construction are stored, managed, and disposed of in a manner that is protective of human health and in accordance with applicable laws and regulations. The Plan shall include the following information.</p> <ul style="list-style-type: none"> Step-by-step procedures for evaluation, handling, stockpiling, storage, testing, and disposal of excavated material, including criteria for reuse and offsite disposal. All excavated materials shall be inspected prior to initial stockpiling, and spoils that are visibly stained and/or have a noticeable odor shall be stockpiled separately to minimize the amount of material that may require special handling. In addition, excavated materials shall be inspected for buried building materials, debris, and evidence of underground storage tanks; if identified, these materials shall be stockpiled separately and characterized in accordance with landfill disposal requirements. If some of the spoils do not meet the reuse criteria and/or debris is identified, these 	PM shall require CM to implement the Soil and Groundwater Management Plan.	Construction	PM/CM	Monitor implementation	Construction

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<p>materials shall be disposed of at a permitted landfill facility.</p> <ul style="list-style-type: none"> Procedures to be implemented if unknown subsurface conditions or contamination are encountered, such as previously unreported tanks, wells, or contaminated soils. Procedures for containment, handling and disposal of groundwater generated from construction dewatering, the method to be used to analyze groundwater for hazardous materials likely to be encountered and the appropriate treatment and/or disposal methods. <p>The Pre-Construction Hazardous Materials Assessment (HAZ-1a), Health and Safety Plan (HAZ-1b), and Soil Management Plan (HAZ-1c) shall be submitted to the PBCE Director or the Director’s Designee.</p>					

Source: San José-Santa Clara Regional Wastewater Facility Yard Piping and Road Improvements Addendum, February 2021.